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AMERICAN CITY GOVERNMENT AND ADMINISTRATION

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AMERICAN CITY GOVERNMENT AND ADMINISTRATION

by

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CROWELL'S SOCIAL SCIENCE SERIES
Edited by
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UNIVERSITY OF KANSAS

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To

WILLIAM KERSHAW

HEADMASTER EMERITUS OF GERMANTOWN ACADEMY

TEACHER, GUIDE, FRIEND

EDITOR'S NOTE

THIS volume is a well balanced and readable exposition of city government and administration in the United States. Recent changes, current tendencies, and problems still awaiting solution are treated both critically and constructively. Emphasis is properly placed on the functional aspects of the subject and on the factors at work in the situations under study. By virtue of these features the book should prove quite effective in stimulating the interest of college students, for whom it is primarily designed; and the general reader should find it a useful guide in the study of the subject.

S. E.

PREFACE

THE purpose of this text is to present the story of American city government and administration within the compass of a single volume. The conventional lines of treatment have been followed, of course, for a textbook is not the place to make radical experiments. An attempt has been made, however, to introduce some new points of view, and to give the newer problems of government greater emphasis than they have commonly received in the past.

The number of subjects treated is necessarily large, for the activities of the modern American city are manifold. Yet the reader will find a central thought running from cover to cover—a theme based upon the three cardinal principles of all effective government: concentration, simplicity, confidence. An early chapter, entitled "The Theory of City Government," provides the student with fairly definite standards, so that he may weigh intelligently the relative merits and defects of the various schemes of governmental organization later presented for his consideration.

Some phases of municipal administration—street paving or sewage disposal, for example—can best be explained in the technical jargon of the engineer. Anyone who tries to explain them in simple, non-technical language is likely to incur the charge of superficiality. On the other hand, anyone who writes a city government text in the terminology of the engineering profession is fairly certain to lose the interest of his readers. In this volume, the attempt has been made to remain non-technical without becoming superficial. And if some details have been sacrificed, it is hoped that readability has thereby been increased.

Every author of a textbook is confronted with the problem of chapter lengths. He knows that chapters of about

equal length simplify the problem of assignments, and therefore are greatly preferred by teachers and students. On the other hand, he knows that every aspect of his subject is not equally important. Shall he sacrifice logic to expediency, and give every topic approximately the same amount of space? Or shall he insist upon a logical space distribution, and produce a textbook largely unsuited to classroom needs? In this volume the difficulty has been met by assigning to each chapter about the same number of pages, but grouping the topics in such a way as to cover thirty-six main subjects in thirty chapters. City-state relations, a complex subject of great importance, is given two chapters; while one-third of a chapter suffices for housing.

A great many acknowledgements are due, for nearly every portion of this text has been read and criticised by specialists in the several fields of city government and administration. The author is particularly grateful to the following: Professor Seba Eldridge, of the University of Kansas, editor of the Social Science Series, Professors Clyde L. King, Carl Kelsey, Clarence N. Callender, Arthur J. Jones and J. T. Sellin, of the University of Pennsylvania, C. W. Tooke, of New York University, Joseph P. Harris, of the University of Wisconsin, and Thomas R. Agg, of Iowa State College; to Messrs. A. E. Buck and Bruce Smith, of the National Institute of Public Administration, Dr. Carl E. McCombs, manager of the National Institute, Dr. Charles A. Beard, of the New York Bureau of Municipal Research, Mr. Russell Forbes, secretary of the National Municipal League, Dr. John Bauer, director of the American Public Utilities Bureau, Mr. Fred Telford, director of the Bureau of Public Personnel Administration, Mrs. Theodora K. Hubbard, librarian of the School of Landscape Architecture of Harvard University, Dr. George K. Hallett, Jr., executive secretary of the Proportional Representation League, Messrs. Ward Harrison and Kirk M. Reid, of the General Electric Company, Mr. George W. Booth, chief engineer of the National Board of Fire Underwriters, Mr. Burton W. Marsh, traffic engineer of the City of Pittsburgh, Mr. Weaver W. Pangburn, of the Play-

ground and Recreation Association of America, Mr. George Gove, secretary of the New York State Housing Board, Mr. Frank B. Williams, assistant director of the legal department of the Regional Plan of New York and Its Environs, and Mr. Louis H. Pink, New York attorney. These persons are responsible in no small measure for whatever merits this volume may possess. It is almost superfluous to add that they do not share with the author the blame for errors of judgment and of fact.

AUSTIN F. MACDONALD.

Philadelphia, October 1, 1929.

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Part I

GOVERNMENT

CHAPTER I

PROBLEMS OF THE CITY

Modern civilization is an urban civilization. Its strength is the strength of our cities; its weakness is their weakness. They are the centers of the world's industry, the world's trade, the world's culture. Within their borders are the great workshops; along their water-fronts are the docks, the steamers, the shipping offices—all the paraphernalia of commerce. In the cities are found the great financial institutions that play so dominant a part in world affairs. There, too, are found the leaders of every nation—business leaders, political leaders, leaders of thought. The cities set the pace for the rural districts. From them come the styles—new business methods, new fashions in dress, new modes of thinking. In every nation of the world the intelligentsia is primarily an urban group. The man of refinement is an *urbane* gentleman because he is usually an *urban* gentleman. Not without reason are both adjectives derived from the Latin *urbs*—city.

Just as all roads once led to Rome, so today all roads lead to New York, London, Berlin, Paris. In Italy, after two thousand years, they still lead to Rome. For the great cities of the world are powerful magnets, drawing to themselves the young, the ambitious, the gifted of every age and every race. Nearly forty years ago Levasseur declared that "The force of attraction of human groups is, in general, proportional to their mass,"[1] and while he doubtless overstated the case, his observation serves to emphasize the stupendous growth of the cities of every nation. Nowhere has urban development been more phenomenal than in the United States. When the Constitution was adopted in 1789, there were six cities of more than eight thousand

[1] E. Levasseur, *La Population Française*, II, 355.

population; today the number of such cities is probably in excess of one thousand.[2] New York City, the metropolis, had a population of thirty-three thousand; its present population is about six million. The America of 1789 was overwhelmingly rural; only four per cent of the people were city dwellers. Present-day America is predominantly urban; a majority of the inhabitants live in cities.[3] Chicago has multiplied its population tenfold during the last sixty years, while Detroit and Cleveland have developed even more rapidly.

Growth of City Problems

As the cities have grown large, they have found themselves faced with a multitude of new problems. The very fact of their immensity has made necessary a new economy, an urban technique of life. The agriculturalist is a Jack-of-all-trades, and in large measure independent of his fellows. He is his own carpenter, his own plumber, his own milkman and not infrequently his own butcher. His wife is the family baker and perhaps the family tailor. His neighbors, his family, his church and his radio provide his amusements. The city man, on the other hand, is above all else a specialist. He knows how to do but one thing, whether that one thing be the practice of law or the operation of a complicated piece of machinery. And because he is a specialist, he is entirely dependent on those about him for even the barest necessities of life. He must be fed, housed, clothed, transported, amused. The city's minute division of labor makes for better and more abundant food, better equipped and more comfortable homes, better made and more attractive clothing. But it also makes necessary the development of a marvelous organization to satisfy the wants of urban man.

The average city dweller has no conception of the com-

[2] According to the 1920 census figures, the number was 924.

[3] It must be understood, however, that the U. S. Census Bureau classes as cities all towns and villages with populations of twenty-five hundred or more. Most towns of twenty-five hundred or three thousand possess few of the distinguishing characteristics of urban life.

plexity of this organization. He takes as a matter of course the fresh milk that has been brought from a distant farm to some central distributing point, and thence delivered to his door. The fresh fruit brought a thousand miles or more to grace his breakfast table receives scarcely a thought. He expects to find in his home at all times an abundant supply of pure, clean water, and he is seldom disappointed. Yet that water must be brought hourly to the city in great quantities, sometimes from distant sources. New York City's daily consumption of water is in excess of 860,000,000 gallons, and a considerable portion of this supply comes from the Catskill Mountains, one hundred miles distant. Nor does the average city man give a moment's consideration to the transportation system that daily carries him to and from his work, unless he is irked by its inadequacy. Most of the services that to him seem so essential form no part of the life of the country. Public lighting is unnecessary in rural districts; the removal of all forms of waste is left to the individual. Parks and playgrounds, social work, police forces—these things are primarily in the city and of the city. Rural fire protection is largely the work of volunteers; urban fire protection must of necessity be entrusted to professionals. The slum, solely an urban phenomenon, brings with it a host of problems of which the country knows naught.

The Problem of Education

Education is in some respects a simpler matter in urban than in rural districts. Suitable teachers can more readily be procured in the city. The fullest use can be made of equipment, because large numbers of pupils are concentrated within relatively small areas. Even the rapid growth of the consolidated school movement has not materially altered this fundamental fact. The greater wealth of the city is also a factor in enabling it to maintain higher standards. Continuation and part-time schools are urban commonplaces; in the country their significance is just beginning to be realized. Compulsory school attendance laws are seldom well enforced in rural sections. Then, too, city

life places a premium on education. There are few jobs in any urban community open to the man who cannot at least read and write. "Mark Villchur, editor of the *Russkoye Slovo,* New York City, asked his readers how many of them had read newspapers in the old country. He found that out of 312 correspondents only 16 had regularly read newspapers in Russia; ten others from time to time read newspapers in the *Volast,* the village administration center, and twelve were subscribers to weekly magazines. In America all of them were subscribers or readers of Russian newspapers."[4]

The Foreign-born

There is, however, one phase of urban education which cannot be lightly dismissed, for it presents a problem that has not intruded itself to any extent upon the rural districts. That is the education of the foreign-born. There are almost fourteen million foreign-born persons in the United States, according to 1920 census figures, and three-fourths of those fourteen millions are living in cities. Nearly half of them are concentrated in forty of our largest cities. The immigrant may have been an agriculturalist in the land of his birth, but when he reaches this country he is fairly certain to become a city dweller. The percentage of foreign-born in Chicago is about three times as large as in the rest of the state, and our other great cities are also topheavy with newcomers from distant lands. In fact, a city's power to attract immigrants seems to bear a close relationship to its size. The larger the city, the greater is apt to be the numerical strength of the foreign element. Thirty-five per cent of New York City's population is foreign-born, while Chicago, Detroit and Cleveland are near the thirty per cent mark. Compare these figures with Cincinnati's sixteen per cent and Kansas City's eight per cent.

Every one of our greatest cities, therefore, is faced with a serious problem of Americanization. The newcomers must be taught American ideals, American traditions,

[4] Park & Burgess, *The City,* p. 81.

American standards. Many of them must be taught American concepts of personal hygiene. Nearly all are sadly in need of a working knowledge of the English language, and a considerable percentage are unable to read and write in any tongue. The 1920 census figures placed the number of illiterates in New York City at two hundred and eighty-one thousand, and two hundred and seventy thousand of them were foreign-born. It is commonly said that immigrants are responsible for a large portion of the crimes committed in American cities. The crime statistics are so incomplete and inaccurate that it is difficult to verify this statement, but in all probability it is true. The foreign-born, as a group, are no more vicious or naturally inclined to law breaking than native Americans, but poverty as well as illiteracy is usually greater among them. Their living standards are lower. And these things predispose to crime. It must not be forgotten, also, that many violations of the law are the result of ignorance rather than deliberate intent. The immigrant often finds himself a lawbreaker because of his unfamiliarity with American customs, as when, for example, he sets out with his pushcart to peddle vegetables, not having bothered to procure a license from the city hall.

One of the most serious problems raised by the presence of the foreign-born in our large cities is the ease with which they lend themselves to the manipulations of the politicians. The foreign vote is notoriously the chief element of strength in many a well-oiled political machine. This state of affairs does not indicate that the foreign-born are extremely docile or entirely indifferent to civic progress. It simply means that the organization has performed a real service for them and that they are repaying their debt in the only way they can. To them the division leader is a sort of guardian angel. They come to him with their woes, and he seldom sends them away uncomforted. If the oldest boy has run afoul of the law, the leader is usually able to straighten out matters by whispering a few judicious words in the judicial ear. If a permit is needed, he makes it his business to see that one is obtained. If times are

hard, he may generally be counted on to help in meeting the month's rent. And he is more reliable as a job-getter than a dozen employment agencies. Reformers may deplore the power of the organization over the foreign-born, but they will never break the organization's hold unless they vie with it in personal service. And in the meantime many a new immigrant will become the willing follower of the professional politicians.

Public Health

The most serious aspects of the public health problem are found in the cities. Men living in the country may be permitted within reasonable limits to do as they please. If they choose to jeopardize their health, that is largely their own affair. But when they merge their lives with the lives of the cities' thousands or millions, when they make their homes in tenements or apartments, with neighbors but a few feet away, their mode of living becomes a matter of vital concern to everyone else. No longer may they do as they please. The danger of spreading disease is too great. Even spitting is a violation of the law.

Cities do not content themselves, however, with passing prohibitory laws to protect the health of their inhabitants. In practically every city is a department or bureau of public health, charged with the task of fighting disease. Persons afflicted with contagious maladies are quarantined. Food and milk are carefully inspected. School children are regularly examined by trained physicians. Popular educational campaigns are carried on, and people are taught how to take care of their bodies. The abatement of nuisances is a part of the daily routine, for within the limits of the city many things become nuisances which would be regarded in rural districts as commonplaces of life.

Crime in the City

Cities are not only the center of the world's civilization and the world's culture; they are also the center of the world's vice and crime. It is chiefly for this reason that

many persons speak of the trend to the cities as though it were an evil thing and altogether to be regretted. Newspaper editors, clergymen, statesmen—thousands of leaders of public opinion write or speak in glowing terms of the simple joys of a pastoral existence, and paint in contrast a dark picture of the sin and shame in our large cities. Nor are their words without force. Back of the blazing lights and the blaring sounds is another world, an underworld of dimmed lights and hushed voices. The cities contribute far more than their share to the crime record of the nation. Commercialized vice is almost entirely an urban product.

But is it quite fair to place the entire blame for this state of affairs upon our urban communities? Should the residents of our cities be held guilty of the nation's iniquity? The brothel is in the city, but its patrons are not solely city dwellers. The gambling den, the speak-easy, all the more flagrant forms of commercialized evil, flourish in the urban environment, but they draw their clientele from farm as well as from factory. The great cities are not only the world's workshops; they are the world's playgrounds. Here are the best plays, the best symphony concerts, the best art galleries. Men and women who love the finer things of life, even though they live in the country, come to the city for their amusement. So it is not surprising that country folk with less admirable tastes also come to the city for their pleasure. The house of ill fame is in the city for the same reason that the opera house is in the city; both gain thereby a maximum of accessibility. The house of ill fame, however, has an added advantage because of its urban environment. The identity of its patrons is hidden in the city's anonymity. Many a rural dweller who has grown restive under the restraints of convention suddenly finds those restraints weakened when he merges with the city's thousands. No one knows his name or his business, and no one cares. He tastes for the first time the freedom that is the city man's birthright. And if he indulges in the city's excesses somewhat later in life than the man whose boyhood was spent on paved streets, it is only because the opportunity has previously been lacking.

So, too, with crime. The criminal record of our cities has often been cited as an indication of lower moral standards, if not a clear proof of the actual degeneracy of all urban dwellers. Indeed, the statistics show a large excess of urban criminality; in many cities the rate is three or four times as high as in the rural districts. But this prima facie evidence must be examined with care before it is accepted as proof that the city is a breeder of criminals. Instead it may show among other things that municipal officials keep better and more accurate records. The statistics compiled by county and township authorities are generally incomplete and unsatisfactory. Moreover, many violations of the law cannot be accepted as evidence of inherent criminal tendencies. The complexity of urban life makes necessary a vast number of restrictions on individual action. Every city man is ignorant of some of the hundreds of statutes and ordinances which presumably guide his conduct, and because he is ignorant he is a potential lawbreaker. Not without significance is the story of the suburban resident who violated one city ordinance by driving his automobile at twenty miles an hour and another by locking it when he put it in a public garage; who broke the law again when he spat on the sidewalk and when he took a short cut across a vacant lot on his way home; who committed a serious offense when he struck a match on a convenient mail box; and who later in the evening laid himself open to charges of civil and criminal libel by writing a letter to the editor of his favorite newspaper in which he expressed his opinion of some members of the city's corrupt political organization. During the day this law-abiding citizen violated at least six laws, carrying with them total maximum penalties of several thousand dollars and several years in jail, without ever realizing that he had joined the ranks of the law breakers. The farmer may occasionally violate a statute because of ignorance, but in his case the danger is reduced to a minimum. He does not need to interpret life in terms of prohibitions.

Without doubt, however, the high crime rate of the cities is due to something more than the multiplication of laws.

Serious offenses against the social order are far more numerous in urban than in rural communities. But crimes that do most to swell the record of the city are not crimes against the person; they are crimes against property. This significant fact indicates the cause of most urban crime—the great concentration of wealth in urban districts. More is stolen in the city, because in the city are found more things worth stealing. Forgery is more common, because men with large bank accounts are far more numerous. And arson is more frequent, because of the greater value of property. Criminals are not necessarily bred in the city, but they come to the city to ply their nefarious trades. Not only are the rewards greater, but the chance of detection is less. A single stranger in the village awakens curiosity; speculation as to his past performances and his future prospects at once becomes the central theme of conversation. But a hundred or a thousand strangers in the city occasion no surprise. The criminal finds it a simple matter to lose his identity in the jostling crowd. Moreover, the presence of commercialized vice makes the city attractive to gunmen, pickpockets and their kind. Between the red light district and the chronic law breaker there has always been a close affinity.

It must not be forgotten that much of the city's lawlessness is the result of the activities of a comparatively small group—the professional criminals. Moralists often refer to the city as a symbol of vice and crime. They speak as if the number of thieves in any community could be determined by the simple process of totalling the number of thefts, the tacit assumption being that there is a different offender for each theft. The fact of the matter is, however, that a small number of criminals are responsible for a large number of crimes, while the vast majority of city dwellers are sober, industrious, and, to the best of their ability, law abiding. To indict urban civilization as lawless and criminal because of the offenses of its lowest element is as unfair as to gage rural morality by testing the morality of the inmates of the village jail. The presence of a parasitic criminal element within the city is, in a sense,

a tribute to the city's vigor and wealth. A dead organism has no parasites.

Urban v. *Rural Birth Rates*

A century and a half ago the urban birth rate was considerably lower than the birth rate in rural districts. "More wants and increased splendor, with higher prices for the necessaries of life, keep men from marrying in the cities," explained a German writer in 1760.[5] In most countries, however, the urban birth rate now exceeds the rural, and the United States is no exception. Our cities, particularly our largest cities, are contributing more than their share to the natural increase in the population.[6] Many explanations of this fact have been offered. It has been pointed out, for example, that the newly arrived immigrant groups, concentrated chiefly in urban communities, are highly prolific. But the percentage of urban births is large in Europe as well as in the United States, and in most European cities no large foreign element swells the urban rate. Moreover, the productivity of the city immigrant is matched by that of the rural Southern negro.

In all probability the high urban birth rate is due chiefly to the fact that the city numbers among its population far more than its share of women of child-bearing age. Women between the ages of twenty and forty-four—and men, too, for that matter—are far more numerous in the city than in the country. If you are looking for persons under twenty years of age, you will find one hundred and thirty-one of them in the rural districts for every one hundred you discover in the cities, according to the 1920 census figures. But if your quest is for persons in the prime of life, men and women between the ages of twenty and forty-four, go to the urban communities; you will find there one hundred such persons for every eighty-five in the rural sections. This difference in age distribution represents the response of youth to the call of the metropolis. It is a

[5] Sussmilch, J., *Die Göttliche Ordnung*, quoted in Weber, A. F., *The Growth of Cities in the Nineteenth Century*, p. 331.

[6] The birth rate is lower in New York City, however, than in rural America.

symbol as well as a cause of the city's eternal youth and vigor. Or, if you prefer, it is a menace to the future of rural America. In any event the census figures are a statistical recognition of the generally known fact that the cities draw to themselves the youth, the vitality, the creative power of the nation.

In view of the fact that the cities have far more than their quota of women of child-bearing age, it might be well to ask whether urban life is really conducive to larger families, or whether unfavorable urban conditions are masked by an excess of people in the prime of life. Obviously these questions cannot be answered by simply comparing urban and rural birth rates. Allowance must be made for differences in age, nativity and race. A few years ago an eminent sociologist made a comparative study of city and country birth rates in the United States, taking into account the dissimilarities in city and country populations.[7] Births were classified according to the age, nativity and race of mothers. With population differences ruled out, it was found that the urban districts were actually producing less than their share of children. In fact, judged by the potential fertility of their population, they were supplying only 84 per cent of their quota. This study, though covering only a brief span of years, is fairly conclusive evidence that the urban environment is unfavorable to a high birth rate, and that but for a number of compensating factors, chief among them being the large number of people in their prime, the rural birth rate would exceed the urban by a substantial margin.

The poor showing of the city in this respect need occasion no surprise. Children are an asset in the country; in urban communities they are a liability. At an early age country boys and girls are expected to take over at least a portion of the daily routine of farm life; even their school term is adjusted with reference to the needs of the farm. Moreover, it is less expensive and far simpler to rear children in the country. The "barefoot boy with cheeks of tan"

[7] H. B. Woolston, "American City Birth Rates," published in Ernest W. Burgess' *The Urban Community.*

requires fewer and cheaper clothes, and his other wants are likewise more readily satisfied. Open fields instead of congested thoroughfares are his playground. Other factors also tend to swell the rural birth rate. One is the earlier age of marriage in the country. Another is the less widespread knowledge of effective birth control methods among the farm population. And the explanation of the German writer of 1760, that "more wants and increased splendor, with higher prices for the necessaries of life, keep men from marrying in the cities," is not without force today.

The High Death Rate

Nearly every city is faced with the problem of reducing an excessively high death rate. Since the cities have more than their share of persons in the prime of life, one might reasonably expect to find their death rate considerably lower than that of the country; but instead, the cities make a much poorer showing than the rural districts. The largest cities, generally speaking, are the worst offenders. Boston's death rate is thirty per cent higher than that of the rural United States, and Philadelphia's record is only a trifle better. The city dweller, therefore, must reckon with the fact that his chance of living to old age is lessened by his environment. To some extent the higher death rate of our cities represents the price we pay for progress. Every year, for example, a large number of persons are the victims of industrial accidents. Every year the death toll of the automobile sets a new high mark. The number of deaths from these two causes can probably be kept within bounds by proper preventive measures. Better enforcement of laws requiring safeguards for dangerous machinery will accomplish much. Campaigns of popular education based on the "safety first" idea will lessen the danger of the automobile to life and limb. But no amount of legislation or education can alter the fact that modern methods of production and transportation have greatly increased the number of accidental deaths, especially in our cities. The only way to change this state of affairs completely is

to abandon our modern methods and return to the hand loom and stage coach of other days.

But excessive urban mortality can be attributed in only a very slight degree to the high accident rate. The large majority of deaths are due to disease rather than to accident, and this is true in the cities as well as in the rural districts. The poor showing of our cities can be explained, to a considerable extent, in terms of overcrowded and unsanitary living quarters. In practically every large city of the United States, and in most of the small cities also, are found slum sections in which men, women and children are herded together like cattle. Sometimes a single windowless room serves as home for an entire family. Defective plumbing, flooded cellars, and lack of proper ventilation are commonplaces. With sunlight and fresh air at a premium, disease and death are bound to follow. Typical of slum conditions is the story of one city family: "In two bandbox rooms live a father, mother, mother-in-law and three children. The yard, twelve feet long by three feet wide, is used by six families, so the washing for this family has to be done in one of the two rooms. These rooms serve as living-room, dining-room, kitchen and bath, as well as bedrooms for all. The father is tubercular, and the children are below par. One has rickets, and another is showing poor convalescence from pneumonia." It need occasion no surprise that tuberculosis is partly responsible for the excess of urban deaths.

Many writers contend that the city dweller's span of years is shortened by reason of the very nature of city life —its excitement, its hubbub, its inevitable drain upon the nervous system. In every urban community life is a constant succession of exhortations to do things faster—"Step lively"—"Keep moving"—"Watch your step." There is no rest for tired muscles or jaded nerves. The exhaustion of the day is not banished by an evening of quiet rest, but by the artificial stimulation of the cinema or the dance palace. There is small probability of proving definitely that this mode of living has any effect upon the length of life, but it is interesting to note that diseases of the heart

make a large contribution to the urban death rate. Suicides are also far more numerous in cities. Curiously enough, cancer causes many more deaths in the city than in the country; in fact, it helps to accentuate the difference between city and country death rates far more than does the dreaded white plague. The causes of cancer are so little understood that it would be unwise to hazard an explanation of its urban predominance other than to suggest the possibility of better diagnosis in the city. Many deaths from cancer in rural cummunities may find their way into the records under another name.

It is generally agreed that the success of any nation's public health policy can be determined with reasonable accuracy by examining the trend of its infant mortality rate—that is, the percentage of children who die during the first year. Some even go so far as to say that the record of a nation's infant deaths is the best measurement of its civilization. Among children under the age of one year the mortality is always very high; of every thirteen children born in the United States one dies before the first birthday is reached. Formerly the figure was still higher. American vital statistics of half a century ago are fragmentary and not very reliable, but there is reason to believe that the infant mortality rate of 1875 or 1880 was at least twice as high as at present. To this appalling rate the cities have always contributed considerably more than their share, and today they still make a poorer showing than the rural districts. This does not mean that city officials have neglected the problem of excessive infant deaths; on the contrary, they have attacked it with vigor and with marked success. New York City, one of the pioneers in the field, reduced its infant mortality rate seventy per cent in a period of thirty years—a most remarkable achievement. But the rural baby still has a better chance for life than his urban cousin. The cities have succeeded only in narrowing the gap, and not in closing it. Their child health clinics, their superior hospital facilities, their rigorous inspection of milk supplies have been counterbalanced by unsanitary living conditions, undernourishment, and the return to

work of factory women too soon after confinement. What John Graunt wrote of London more than two hundred years ago might be applied with equal force to our great cities of today: "As for unhealthiness, it may well be supposed that although seasoned bodies may and do live near as long in London as elsewhere, yet children do not."[8]

City death rates vary widely from class to class within the community. Among the poor and the ignorant the percentage of deaths each year is startlingly large, while among the rich and well educated the death rate is even lower than in the rural districts. A comparison of any city's mortality figures by wards will serve to emphasize this fact. The rural death rate, on the other hand, shows no such wide variations among classes. The general statement that the urban environment shortens life must therefore be qualified. It shortens life only for the lower social groups, while for the upper classes it increases the span of years. The city at its worst, the slum section with its foul smells, its improper ventilation and its filth, is a frightfully destructive agency; the city at its best, the garden suburb with its healthful environment, its modern facilities, and, above all else, its ready command of the highest medical skill, is a wonderful conservator of life.

Marriage in the City

City life apparently tends to discourage marriage. At any rate the proportion of married persons is considerably smaller in the cities than in the rural sections. This difference is most marked in the largest cities. There are some exceptions of course, but in general it may be said that as density of population increases the likelihood of marriage decreases. Nor should this fact occasion surprise. In the country marriage is almost an economic necessity, for rural life boasts no restaurants, no furnished rooms, no steam laundries. Men and women share equally the work of the farm, but in the city the duties of the housewife can be reduced to a minimum. That is why an increasingly large number of city women are becoming independent

[8] *Bills of Mortality*, quoted in Weber, *op. cit.*, p. 367.

wage earners. Then, too, farm life is more lonely. Even the radio has not succeeded in banishing the need for companionship, especially during the long winter months. In the city the theatre, the opera, the symphony orchestra make life far less monotonous. So do the dance hall, the pool room, and the boxing arena.

The urban environment tends not only to discourage but also to postpone marriage. Rural people marry at a much earlier age than do city folk. Most farm women are married before they reach the age of twenty-five; most city women are not. Among men city life increases the period of celibacy at least five years. The higher cost of maintaining a decent standard of living in the city and the necessity for a longer period of training make later marriages inevitable.

Divorce

The factors that tend to make marriage less of a necessity in the city also operate to make divorce less of a calamity. We should expect, therefore, to find a higher percentage of divorced persons in urban communities than in rural, and such is actually the case. The ratio is about two to one. The greater economic independence of city women, the greater variety of city life, and the greater number of childless marriages are all partly responsible. Then too, the moral codes of city and country differ. In most rural sections divorce is still regarded as disgraceful if not actually sinful, while in the larger cities it is coming to be regarded as simply a matter of adjustment between two individuals. Divorce, like most other matters, is a personal matter in the metropolis; in the village it becomes a community affair.

The Problem of Good Government

Of all the problems born of city life in the United States, none is more deeply rooted, more widespread or more difficult of solution than the problem of good government. For nearly a century American city government has been synonymous with waste, corruption and political jobbery.

Conditions have been vastly improved since 1888, when Lord Bryce penned his classic denunciation of our municipal government as "the one conspicuous failure of the United States,"[9] but the day is still far distant when advocates of honest, efficient administration must cast about for new worlds to conquer. With but a few exceptions the government of the American city, large or small, is in the hands of a well-organized political machine, so called because it functions with the smoothness and precision of a carefully adjusted piece of machinery. The candidates of the organization are elected to office with monotonous regularity; the policies of the organization are virtually certain to become the policies of the city. Occasionally a wave of popular indignation sweeps into office men who are not professional politicians, but the receding tide of popular indifference leaves the reformers stranded high and dry.

In the government of our cities there is a wide gulf between theory and practice. City charters provide for mayors, commissions and councils chosen by the people and responsible to the people, but it is common knowledge that mayors, commissions and councils alike are chosen by the boss and that they are responsible only to him. Constitutions stipulate that taxation must be for public purposes, but millions of dollars of public funds are paid out every year for purposes that certainly do not benefit the public, however they may be classified. Laws are supposed to be an expression of the popular will, but all too frequently they represent only the will of special interests. Napoleon expressed his theory of government in the famous maxim: "Everything for the people; nothing by the people." The philosophy of the professional politician might well be summed up as "Nothing by the people; as little as possible for the people."

Much has been done in the last quarter of a century to improve the tone of city government. Structural reforms such as the city manager plan[10] have greatly stimulated

[9] *American Commonwealth,* 1st ed., 1888, Vol. II, p. 281.
[10] See Chap. XI.

popular interest and have brought a larger measure of popular control. Privately organized and financed bureaus of municipal research in most of the larger cities have shed a floodlight of publicity upon the activities of city officials. City bosses and their henchmen no longer openly flout public opinion;[11] they now find it desirable to go through the motions of securing popular approval.

But many of the changes have been changes of form rather than of substance. The professional politician has merely adopted new methods. He has not resigned, and he has not relaxed his hold on municipal affairs. Those who wish to secure favors and special privileges from the city government waste very little time at the city hall; they know that mayors and councils are but the puppets of the city's boss. They understand quite well that when the boss pulls the proper strings, the puppets will dance. They realize, as does everyone else, that municipal democracy is more of a hope than a realization, and that in a great number of American cities government by the people is a farce.

The problem of good government is largely an urban problem. Graft and corruption are not peculiar to the city, but they are more prevalent there. In the rural communities the political organization is more loosely knit, more responsive to popular opinion. Most candidates are known personally to the voters. Moreover, maladministration is a more serious matter in the city than in the country. Its effects are more disastrous. The cost of an inefficient city water bureau may be an epidemic of typhoid fever; the price of a poorly organized city fire department may be a conflagration. Urban men and women are forced to place a dependence on government that is unknown in rural districts, and for that reason they pay a higher price for the dishonesty and folly of those in public office.

The ability of the political machines of our cities to win elections with never failing regularity and to retain a

[11] In 1871, when Boss Tweed of New York City was accused of robbing the city of millions of dollars, he did not even deny the charge. Instead he merely asked: "What are you going to do about it?"

firm hold on the reins of government despite the spasmodic efforts of independent voters has been explained in many different ways. Frequently the blame has been laid at the door of the foreign-born, and there can be no doubt that they contribute largely to the organization vote. More often than not the ward and division leaders are native Americans, but among the rank and file of their followers many recent immigrants are sure to be found. The reasons for this pliability of the foreign-born voter have already been suggested.[12] Some writers choose to minimize the political significance of a large foreign element in our cities. They emphasize the fact that Philadelphia, one of the most American of our large urban centers, is undoubtedly one of the worst governed.[13] But those familiar with Philadelphia politics know well that the strength of the dominant Republican organization is in the foreign and colored wards. The negroes also lend themselves readily to political manipulations.

The strength of the political machine is due in large measure to the indifference of the electorate, and it is often asserted that popular indifference increases as home ownership decreases. At any rate, it cannot be denied that the man who sleeps under a roof of his own has a very tangible interest in the honesty and efficiency of government. For he knows that dishonesty and inefficiency generally mean higher taxes, which must come out of his pocket. The man who rents his dwelling understands less clearly, if at all, the relationship between increased taxes and increased rent. Moreover, the purchaser of a home identifies himself more or less permanently with his community. He gives definite proof of his belief in its future prosperity. So it may not be without significance that the percentage of owned homes is nearly fifty per cent larger in rural than in urban districts. In the largest cities the tendency of urban folk to live in rented dwellings is most marked. Eighty-seven per cent of New York's homes are rented, as compared with fifty-four per cent for the entire country; and even in

[12] See p. 7.
[13] W. B. Munro, *Government of American Cities*, 4th ed., p. 17.

Philadelphia, the city of homes, rent payers outnumber home owners by a wide margin.

The form of city government in the United States has undoubtedly aided the development of strong political organizations. The nineteenth century witnessed the almost universal adoption by American municipalities of the theory that democracy was to be measured in terms of elective offices. Complete democracy, it was thought, meant the election of every official, however trivial his duties, however technical his work. This concept of democratic government has never been completely destroyed. Sheriffs, coroners, magistrates, treasurers, auditors, recorders of deeds and a vast horde of other municipal officials are still elected in the belief that the will of the people is thus more truly expressed. The plain truth of the matter is that the will of the people is thus completely thwarted. How can the average voter be expected to inform himself concerning the merits of fifty or a hundred candidates for nearly half that number of offices? His main interest is not politics, and if he is asked to vote for every officer in the municipal alphabet from assessor to zoning commissioner he will do one of two things—either give up in despair and stay home on election day, or else accept the slate of the party leaders and vote a straight party ticket. In either event he is contributing to the success of the machine. The close relationship between a long ballot and boss rule is now quite generally recognized, and a number of cities have recently amended their charters so as to provide for the appointment of officers formerly elected. It is becoming increasingly clear that any type of government, regardless of its label, which places control of public affairs in the hands of an irresponsible few is not democracy, but the worst kind of oligarchy. Changes come slowly, however. The old theory of democracy is still to blame for a vast amount of bad government in the cities of the United States. Its results have never been so serious in the rural districts, though it has received as wide acceptance, for the obvious reason that public offices are far less numerous. At a typical Chicago election more than seven square feet

of ballot are needed to record the names of all the candidates.

"Invisible Government"

Elihu Root once called the system of boss rule "invisible government," and the term has stuck. Speaking before the New York Constitutional Convention of 1915 he declared: "For I don't remember how many years, Mr. Conkling was the supreme ruler in this state; the governor did not count, the legislature did not count; comptrollers and secretaries of state and what not, did not count. It was what Mr. Conkling said, and in a great outburst of public rage he was pulled down. Then Mr. Platt ruled the state; for nigh unto twenty years he ruled it. It was not the governor; it was not the legislature; it was not any elected officers; it was Mr. Platt. And the capitol was not here; it was at 49 Broadway; Mr. Platt and his lieutenants. It makes no difference what name you give, whether you call it Fenton or Conkling or Cornell, or Arthur or Platt, or by the names of men now living. The ruler of the state during the greater part of the forty years of my acquaintance with the state government has not been any man authorized by the constitution or by the law. . . . The party leader is elected by no one, accountable to no one, bound by no oath of office, removable by no one."[14]

The prevalence of invisible government in our cities is due in part to the size of the stakes involved. Strongly entrenched political organizations will fight to the last ditch to hold their power, and if need be they will resort to every trick in the handbag of politics. The spoils of office are worth fighting for. New York City's budget calls for an annual expenditure in excess of half a billion dollars. There are two hundred and fifty cities in the United States each spending more than a million dollars a year. Most county and village budgets seem very small by comparison. The control of the purse-strings of a single city means great power, and, if unscrupulously used, great wealth. Why should a man with organizing ability and a fondness

[14] *Annals of the American Academy of Political and Social Science*, Vol. LXIV, pp. X-XI.

for the game of politics waste his time and talent in a rural community when the large cities offer prizes of far greater value? The cities draw to themselves the great and near-great political leaders, just as they draw the great and near-great of every profession—merchants, bankers, sculptors, musicians, thieves.

Boss rule is in large measure the result of popular indifference. The independent citizens of every community have a numerical strength more than sufficient to destroy the power of the organization, but their strength is seldom displayed on election day. Very rarely does an election bring to the polls more than half of the average city's eligible voters, and it is safe to say that most of those who stay at home are hostile to the organization or indifferent to its activities. For organization workers make it their business to see that no friendly vote is left uncast. Non-voting is not confined to the cities. There are many farm people who never trouble to go to the polls. But the problem is more serious in the city than in the country, because it is more deeply rooted. City life tends to destroy community spirit; it breaks down the neighborhood as a social group. In the city a man's neighbors are not his friends; many of them are not included in his circle of acquaintances. He is supposed to unite with them in choosing aldermen, commissioners, Congressmen, but since he knows none of the candidates, he is not likely to have a marked preference.

Few city people have any vital interest in their neighhoods. The foreign quarters preserve to some extent a genuine community spirit, because differences in language and customs prevent their residents from mingling freely with the residents of other sections. But the men and women who ought to supply the leadership in any fight for good government really know very little about their communities and care very little how they are governed. "The competent people . . . are, either physically or in imagination, abroad most of the time. They live in the city—in their offices and in their clubs. They go home to sleep. Most of our residential suburbs tend to assume, as far as

the professional classes are concerned, the character of dormitories. It is seldom that anyone who is sufficiently eminent or sufficiently competent to find a place in *Who's Who* has time for anything more than a benevolent interest in his local community."[15]

The city is something more than a magnified village. Its problems are not only more intense; they are unlike. Its life is not merely more varied; it is dissimilar. Its standards are not simply rural standards adapted to urban needs; they are different. In the course of its development the city takes on a new mode of living, a new character. And, in order to make possible the new mode of living, it must develop a new and more efficient organization. The problems of the city are great, but they are not beyond hope of solution. Indeed we dare not despair, for the future of our cities is the future of our civilization.

SELECTED REFERENCES

Anderson, Wm., *American City Government,* New York, 1925, Chap. VII.

Burgess, Ernest W., ed., *The Urban Community,* Chicago, 1926.

Daniels, John, *America via the Neighborhood,* New York, 1920.

Gras, N. S. B., *Introduction to Economic History,* New York, 1922.

Maxey, Chester C., *Readings in Municipal Government,* New York, 1926, Chap. I.

McKenzie, R. D., *The Neighborhood,* Chicago, 1923.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chaps. I and III.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. VII.

Park, Robert E. and Burgess, Ernest W., *The City,* Chicago, 1925.

Reed, Thomas H., *Municipal Government in the United States,* New York, 1926, Chaps. I and II.

Spengler, Oswald, *Decline of the West,* 2 Vols., New York, 1926-28.

Taylor, Graham R., *Satellite Cities,* New York, 1915.

Weber, A. F., *Growth of Cities in the Nineteenth Century,* New York, 1899.

Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chap. VII.

[15] Park & Burgess, *op cit.*, pp. 113-114.

CHAPTER II

THE GROWTH OF CITIES

THE history of the United States has been one unbroken record of stupendous growth. The America of 1790 had a population of a little less than four million; present-day America has a population close to the one hundred and twenty million mark. It is but natural to suppose that the cities of the United States would share in this remarkable increase, and indeed they have done so. At the time of the adoption of the Federal Constitution, New York City was an enterprising community of some thirty-three thousand souls; since that time it has become the largest city in the world,[1] and the commercial, financial and industrial capital of a Western Empire. Equally remarkable has been the development of a score of other municipalities. And yet for nearly a century after the taking of the first census [2] the cities of America received less than their share of the population increase. During the ninety years between 1790 and 1880 some forty-six millions were added to the population of the United States. More than two-thirds of them became rural dwellers, while less than one-third settled in the cities. Since 1880, however, the pendulum has swung. The urban districts have consistently taken more than their share of the growth in population. Moreover, the drift to the cities is constantly gaining momentum. Between 1890 and 1900 the cities grew three times as fast as the country. During the next decade their rate of growth was four times that of the rural sections. And between

[1] The Metropolitan Police District of London has a population larger than that of Greater New York. It is customary, however, to define London for most purposes as the "Administrative County" of London, a unit of government containing a smaller number of persons than New York City.

[2] 1790.

1910 and 1920 the urban rate of increase was nine times as great. Truly this is the age of the city!

The years from 1880 to 1914 marked the high tide of European immigration to the United States. Some of the newcomers stayed but a brief while in New York, Philadelphia, Boston and other ports of entry, and then passed on to the farm lands of Wisconsin or the wheat fields of the Dakotas. Most of them, however, became urban dwellers. If they forsook the cities of the Atlantic seaboard, it was to make their homes in urban centers beyond the Alleghenies. Immigration has played its part, therefore, in the rapid growth of American cities. Between 1910 and 1920 nearly six million aliens entered the United States. During the same period the rural population increased by only about one million, six hundred thousand. Yet the influx of immigrants has only served to stimulate an inevitable development. Had the United States barred its doors to all newcomers, the cities would still have grown six or seven times as rapidly as the rural districts.

Immigration does not serve to explain the urbanization of England, of France, of Germany. Yet in these nations, as in almost every civilized land, the cities are growing at the expense of the country. Nearly eighty per cent of the people of England now live in urban territory. German cities are gaining rapidly on the rural districts. The population of France has remained practically at a standstill for forty years, but during that period the cities have made great strides. Paris has gained about twenty-five per cent —no mean feat for the capital of a nation with a stationary population. In Europe and America alike men and women are deserting the farms and making their way to the cities. Some persons are inclined to regard this rural exodus as an evil portent. They contrast the filth and the hubbub of the city with the cleanliness and the quiet of "God's great out-of-doors." Others look upon the trend cityward as a sign of advancing civilization. To them a skyscraper is equally as beautiful as a sunset, and a great deal more useful. Many a battle of the inkwell will doubtless be fought by these two groups of thinkers. But in the mean-

time the hegira from farm to factory is certain to continue. Forces beyond the control of any individual are making our twentieth century world an urban world.

The Industrial Revolution

What are these forces which have made city streets of country lanes, and have transformed the market place into the metropolis? What are the fundamental causes of city growth? First may be mentioned the Industrial Revolution, the great upheaval in methods of production that took industry out of the home and put it in the factory. Two hundred years ago the village or small town met all the requirements of the primitive industry of that day. There was little demand for power, for most goods were made by hand. Practically the only power available, other than that supplied directly by human energy, was the power of the water wheel. Labor was but little of a problem, for each man was a skilled artisan, usually working alone or with the aid of a single apprentice, and bound to his fellow workmen only by the loose ties of his guild. With his own hands he fashioned the raw material into a finished product —the leather into shoes, the flour into bread, the flax into cloth. Marketing problems were of the simplest sort, for his neighbors were his customers. A great deal of manufacturing was carried on in the home; nearly every household had its spinning wheel.

And then came a series of inventions that literally revolutionized the lives and habits of civilized men. In 1764 a poor weaver named James Hargreaves hit upon the idea of a "spinning jenny," or multiple spinning wheel, designed to perform more quickly and thoroughly the spinning process then done entirely by hand. Only five years later Richard Arkwright, a barber, improved upon this process with his "water frame." Shortly afterward the two inventions were combined into a surprisingly efficient device for power spinning. Then came power weaving. The puddling process for handling pig iron transformed that metal into a malleable substance, and made it suitable for a thousand new uses, but most significant of all were

James Watt's improvements in the steam engine. The English coal mines were rapidly becoming useless because of the virtual impossibility of keeping them free from water; the steam engine solved the problem. In 1777 it was first used to pump out a Cornish mine. Eight years later Watt's engine, further perfected, was set to work supplying power to a cotton mill. The new engine was a crude affair. It required frequent adjustments and a great deal of patient attention. But it marked the dawning of a new era—the age of power, of large scale production, of factory life.

With the coming of power, manufacturing took on a new meaning. Power required coal, so manufacturing could not be carried on far distant from the chief sources of coal supply. Power made possible machinery that largely replaced the artisans' skill, and reduced the task of many laborers to mere repetition of a single monotonous operation. Manufacturing in the home soon virtually disappeared, for home goods could not hope to compete with the factory product. So families left their homes, and traveled to the rapidly growing factory towns. There they adapted themselves as best they could to the new world rising about them. They became city dwellers by virtue of necessity.

In this way began the urbanization of England as early as the closing days of the eighteenth century. The full effects of the Industrial Revolution were not felt in the United States until about 1820, and it was not until then that the cities began their remarkable growth. The largest American municipalities of 1820 might well be compared as to size with present-day Nashville or Oklahoma City. The coming of steam, however, altered the destiny of America just as it had changed the course of English history a generation before. It brought together coal and men, and since the coal was too bulky to be transported in quantity over great distances, the only alternative was for the men to come to the coal. Almost over night great factory centers came into being.

Some industrial prophets pretend to see the doom of the large city in the recent developments of hydro-electric

power. They point out that the technical obstacles to transmitting this power in vast amounts over long distances are rapidly being overcome, and that in the near future it may be possible to establish a factory in any part of the United States—urban or rural, East or West—with reasonable assurance of receiving an adequate power supply. They emphasize the fact that many great industrial enterprises are escaping the burden of high wages and high taxes by moving from the large cities into smaller communities, taking with them most of their workers. One careful student of the situation in New York concluded that "the peak of manufacturing in the center of the city was reached about ten years ago, and, . . . a process of decentralization is already under way."[3] All over the country are springing up "model" factory towns—Gary, Hershey, Bessemer and a score of others.

It is not safe, however, to conclude from a few isolated cases that modern factories are ready to desert the city. In plain truth they cannot afford to do so. For many years to come coal will continue to be the chief fuel of industry, and no development of hydro-electric power can obscure that fact. As Major Eckel has indicated, "Electric power does not . . . serve as an exact replacement for coal, and though it is likely to develop greatly in the future, its applications will probably take place chiefly in fields and in regions which are not seriously entered by coal today."[4] Some giant power programs involve the conversion of coal into electrical energy, but they are still in their infancy. Moreover, the handicaps imposed by high wages and high taxes are more than counterbalanced by two outstanding advantages—an abundant labor supply and a ready market. Skilled labor may cost more, but it can be more readily procured. And if taxes are high, transportation costs are likely to be low; for the factory situated in a great metropolis has a vast number of potential purchasers almost at its door. The widely heralded "exodus" of industry from the cities is in many instances nothing more than a

[3] Haig, R. M., "Toward an Understanding of the Metropolis," *Quarterly Journal of Economics*, Vol. XL.

[4] Eckel, E. C., *Coal, Iron and War*, p. 134.

moving out from the downtown sections to the suburbs, where most of the advantages of a good location can be obtained without its attendant disadvantages. The factory just beyond the city limits may be in rural territory for purposes of census enumeration, but census figures do not alter its essentially urban character.

Commerce and City Growth

The expansion of industry is, however, only one of the forces contributing to the stupendous growth of urban areas. From earliest times commerce has been a breeder of cities. Along the shores of the Mediterranean clustered the great cities of the ancient world, their interests divided between trade and conquest. A thousand years before the Christian era Tyre and Sidon had become commercial centers, and their ships were a familiar sight in every harbor. With the passing of centuries other names were on the lips of men, but always the names were those of the great focal points of trade. Corinth, Syracuse, mighty Carthage—these cities were powerful in antiquity. Athens was something more than a trading city. It was, in fact, more than a city. Beyond its confines stretched a vast area of cultivated land, tilled for the most part by the people who lived within the city walls, or by their slaves. Athens was a blending of city and country, a hybrid among municipalities. And yet it possessed a magnificent seaport, the Piræus, connected with the city proper by a walled road several miles in length. At the Piræus Greek and "barbarian" mingled, interchanging goods and ideas.

The Roman era was a period of unprecedented commercial development, and of unprecedented urban growth. The famous Roman roads made land travel far quicker and more convenient than it had ever been before; and the *Pax Romana,* the Roman peace imposed upon vanquished peoples, did its share to stimulate trade, for war is the arch foe of commercial intercourse. Rome itself was not a great trading city. Its glory was chiefly the glory of a conqueror, living upon the tribute of subject lands. Yet during the period of its supremacy commerce

flourished as it was not again to flourish for a thousand years. Throughout the length and breadth of the Roman Empire sprang up commercial centers. Trading vessels dotted the Mediterranean; caravans loaded with merchandise made their tedious way from town to town.

The fall of Rome was nothing less than a catastrophe for the whole Roman world. Its direct result was to retard the development of civilization nearly a thousand years. During the Middle Ages commerce dwindled to insignificant proportions. Land travel was virtually impossible, and the growth of piracy made communication by sea dangerous in the extreme. The medieval town was, for the most part, a small collection of squalid houses huddled close to some abbey or manorial castle for protection. It was walled, of course, for every part of Europe was infested by bandits whose exploits have become legend. Within its gates were the artisans and the traders, eking out as best they could a miserable existence. But there was little industry, and trade was carried on only with the surrounding countryside. During the later Middle Ages the weekly town markets were supplemented by annual fairs, at which the products of many cities were displayed and sold. These fairs came to be regarded as great events. Except while they were in progress, however, foreigners were virtually excluded from buying and selling; and at all times the taxes laid upon commerce were so heavy that they discouraged all but the most enterprising. The medieval town was literally self-supporting, in a sense that is true of no modern city. Its surrounding agricultural land produced the food supply; its craftsmen made virtually everything else consumed within its walls. Small wonder, under such circumstances, that no city grew to large proportions! During the early Middle Ages no municipality of Western Europe could boast of one hundred thousand inhabitants. Even as late as the beginning of the fifteenth century, London had a population of but fifty thousand. Had the medieval cities not benefited by constant migration from the country, most of them would have been completely wiped out by fire and pestilence.

With the coming of the modern period commerce regained its old preeminence. The merchant adventurers of England and the conquistadores of Spain carved out vast empires in the New World. As early as 1497 Vasco da Gama discovered a new trade route to India around the Cape of Good Hope. The collapse of the feudal régime and the growth of nationalism added impetus to the development of commerce. Most of the irksome restrictions imposed upon traders by the towns were swept away by royal decree, and banditry was suppressed with a ruthless hand. The new commercial life stimulated the growth of cities. At the beginning of the sixteenth century only six or seven European cities had passed the one hundred thousand mark; at its close the number of such cities had risen to thirteen or fourteen. Although the opening of new trade routes quickened urban development, yet for some cities it meant stagnation and eventual decay. The cities of Western Europe grew with rapid strides in population and wealth, but the great trade centers of the Mediterranean and the Baltic, no longer situated near the heart of world commerce, declined steadily. Seville, Cadiz, Lisbon, Antwerp, London, became prosperous focal points of trade, while Milan, Venice, Messina and many another Mediterranean city clung drearily to their fading glory. Before the year 1600 Paris had passed Constantinople as the largest city of Europe. Thus closely are commerce and urban life interrelated.

About 1800 began a new era in road construction. Under the inspiration of such men as Telford and McAdam carefully prepared materials were used in the building of highways. Even more important, thorough drainage was insisted upon. As a result, the chief roads of Western Europe were soon put in better condition than they had been since the days of the Romans. In the United States highway construction also went on at a rapid pace. As early as 1786 Thomas Jefferson wrote: "I experience great satisfaction at seeing my country proceed to facilitate the inter-communication of its several parts by opening rivers, canals, and roads."

During this period the effects of the Industrial Revolution began to make themselves felt in the field of shipbuilding. As early as 1777 an iron boat was built and launched on the River Floss, in Yorkshire, and a few years later iron came to be generally recognized as suitable for ship construction. Before the opening of the nineteenth century a number of experiments had suggested the possibility of steam as a propelling force, and in 1807 Robert Fulton launched his "devil boat," the *Clermont,* which went puffing up and down the Hudson River spitting fire and smoke, at first frightening the populace, and a little later drawing such crowds that it was unable to meet the demand for the new form of travel. The early steam vessels made use of paddle-wheels, like modern ferry boats. But the work of E. P. Smith and Captain John Ericsson resulted in the general adoption by 1850 of the screw propeller, giving to steam navigation something of its modern efficiency.

George Stephenson built his first locomotive in 1814, but it was not until 1840 that railroads came into general use for carrying freight and passengers. By 1850 there were six thousand miles of railway track in Great Britain, and nine thousand in the United States. And then came the great era of railway building, binding the nations of Europe together with bands of steel, and flinging thousands of miles of track across the American continent. Then, too, came the period of rapid city growth. Between 1850 and 1890 London almost doubled its population, New York multiplied its numbers fourfold, and Chicago grew from a small municipality of thirty thousand to a teeming metropolis of a million people.

Since 1890 railroad and ship construction have continued their remarkable development. Express freight service and the refrigerator car have made possible the sending of perishable commodities over long distances. Cheap freight rates have made profitable the hauling of bulky goods for hundreds or even thousands of miles. The local market place has given way to the world market. The journey between the New World and the Old is now a matter of days instead of weeks or months. World commerce has

taken on new proportions. And so, at the convergence of great railway lines, at the headwaters of navigation, at all points of transshipment, has arisen a need for men to handle the transfer of commodities, to insure the products of commerce, to buy and sell the wares of land and sea. Here have grown the great centers of world trade, the great centers of world civilization—London, New York, Chicago, Berlin, Paris and a hundred other cities.

The Development of Agriculture

No less remarkable than the development of trade and industrial processes has been the improvement in agricultural methods. The Industrial Revolution has been rivaled by the "Agrarian Revolution." The rotation of crops, the proper use of fertilizers and the widespread adoption of better seed have combined to make land vastly more productive. Careful breeding has produced crops better adapted to climatic conditions and better able to resist disease. The development of new types of wheat has moved the outer rim of the wheat belt far to the north. Within the last thirty years the sugar content of the sugar beet has been doubled. Scientific breeding of livestock has greatly increased the weight of cattle, hogs and sheep. Farming methods have been completely altered by such inventions as the reaping machine, the thresher and the tractor. To a large extent machinery has replaced men in present-day agriculture. It has been estimated that the modern farmer, properly equipped with labor-saving machinery, can sow as many acres or harvest as large a crop in a day as could fifteen men a century ago.

At first glance the improvement in farming methods might seem a serious blow to the growth of cities. There can be no doubt that the inventions of the last century have lightened the drudgery of the farm, and have made rural life more attractive than ever before. And yet the actual effect of the Agrarian Revolution has been to hasten the rural exodus and stimulate urban development. It is a curious fact that the widespread adoption of better and more profitable agricultural practices should result in

fewer farms and fewer farmers. The very existence of cities, however, implies a surplus food supply. City dwellers must consume the food produced by other men. Under primitive conditions no large urban growth is possible, because practically everyone is needed to cultivate the soil. But as agricultural methods improve—as the plow replaces the first crude iron-tipped wedge, only to give way in its turn to the modern tractor—men are released from the soil in increasing numbers. In the England of good Queen Bess more than nine-tenths of the people lived in the country, and most of them cultivated the soil. There was, however, scarcely any exportation of foodstuffs. Practically the entire population was kept busy wresting a bare living from the earth. The growth of many large cities would have been impossible. By the middle of the nineteenth century England had become predominantly urban. Only one-fifth of her people were engaged in agriculture. Yet that one-fifth produced sufficient food-stuffs to feed not only themselves but all the rest of England's millions. Importations of wheat and other stable crops were unusual until after 1850. Present-day America exports large quantities of agricultural products, despite the fact that the cities have outstripped the rural districts. Only a small percentage of the population is needed to till the soil. The others are free to make their homes in the cities. Under primitive conditions their labor would still be needed on the farm. The improvement of agriculture, therefore, has been a passive factor rather than an active force in the development of cities. Though it has furnished little stimulus to urban development, yet it has made that development possible. It has permitted the exodus from farm to city; other forces—chief among them the improvement in the agencies of production and in the means of transportation—have operated to make city dwellers of modern men.

The Effect of Medical Science

The development of medical science should also be listed among the factors which have made possible the growth of great cities. The urban communities of the Middle Ages

were devastated time after time by the great plagues that swept across Europe; within their walls lurked always the specter of death. During the plague of 1563 a thousand persons died in London every week, and seven years later Moscow lost two hundred thousand of its population in less than twelve months. No city escaped the dreaded scourge, and some were practically wiped out. The Great London Plague of 1665 took a toll of seventy thousand lives—almost half of those who stayed in the metropolis instead of fleeing to the country.[5] The rural districts suffered less severely than the cities, a fact readily understood if one bears in mind urban living conditions during the Middle Ages. In every city it was much the same. The homes of the people were invariably dark and poorly ventilated, usually overcrowded, and almost always filthy beyond description. Sewers were unknown. Wastes of all kinds were commonly thrown into the streets. In all probability the "foul city air," referred to by so many writers of the period, was more than a figure of speech. For centuries the death rate exceeded the birth rate by a wide margin in every large city of Europe. But for the constant influx of newcomers from the country urban life would soon have ceased to exist. And yet the cities continued to grow, although their growth was slow. Shortly before the beginning of the nineteenth century the vital statistics of Paris began to record a small but consistent natural increase. The French capital was the first large city to bring its death rate below its birth rate. Other cities followed—London by 1800, Berlin by 1810, Leipzig by 1830. Not until the latter half of the nineteenth century, however, could it be said that the cities were able to maintain themselves without migration from the rural districts. One of the greatest triumphs of modern medical science has been the constant reduction in urban death rates. Although the cities still compare unfavorably with the country in the mortality tables, they can no longer be called the destroyers of mankind. Quarantine, disinfection, popular

[5] Graunt, John, *Observations on the Bills of Mortality*, 3rd ed., London, 1665.

health education, the purification of water supplies and the inspection of foodstuffs have removed one of the greatest obstacles to rapid urban growth.

The Electric Railway and the Elevator

Two comparatively recent inventions have played an important part in the growth of cities during the last half century. One of these is the electric railway; the other is the elevator. Prior to the electric railway era, horses furnished the quickest means of communication between the different sections of any great urban center. The steam locomotive was obviously unsuited to interurban travel. So distance proved a limiting factor to the extension of municipal boundaries. With the coming of the electric street railway, however, distance lost much of its significance. Electric cars operating at twenty miles an hour replaced horse cars that seldom averaged five. The first electric railway began operations with a single car and one mile of track in 1881,[6] but the new mode of transportation proved so popular that within two decades it had been adopted by every large American city. Then came the elevated and subway systems, with trains of from two to six cars operating at still higher speeds. More recently the motor bus has proved an efficient feeder to the main transit arteries. These developments have given a tremendous impetus to the growth of outlying suburban sections. They have facilitated the expansion of great metropolitan areas. Measured in time units (and, after all, time is the controlling factor) 200th Street in New York City is nearer the Battery than was 42nd Street a century ago. During the past few decades cities have been made and remade by rapid transit.

The elevator has also played an important rôle in modern urban development. To a considerable extent it has substituted vertical for horizontal distance. It has made possible the skyscraper with its thousand stores and offices,

[6] This first electric railway was in Germany. The earliest American electric surface line was not put in operation until nearly four years later.

and the multi-storied apartment house with its score of families lodged under a single roof. It has concentrated within relatively small areas the factories, stores, offices and dwellings that would otherwise be scattered over great distances. The elevator is an efficient ally to modern rapid transit systems. It enables men and women to travel up and down instead of traveling to and fro. It encourages the cities to grow upward as well as outward.

The great urban influx has not been brought about, however, solely by the invention of mechanical devices. The play of economic forces does not entirely explain why many men leave the farm for the city, while few desert the city for the farm. It would be a mistake to interpret city growth purely in terms of the steam engine, the threshing machine, the ocean liner and the subway. Men come to the great metropolis seeking opportunity, it is true, but once they have cast their lot with the city they remain city dwellers, even though opportunity passes them by. To most of them a crowded four-room flat is infinitely more desirable than a spacious farmhouse. They are willing to sacrifice, to accept inconvenience, even to engage in more monotonous work, for the sake of the city's pleasures. Urban life has a strong fascination. The great buildings, the busy streets, the hurrying throngs, the shrill of sirens, the clang of bells—these things become in time a part of life itself. Without them existence would be more tranquil, but it would be colorless. To gentle souls like Byron "the hum of human cities" may be torture,[7] but to most men and women it is sweet music—a symphony in concrete and steel.

The Location of Cities

To trace the history of urban growth and point out the reasons why the cities are far outstripping the rural districts is a comparatively simple matter. It is less easy,

[7] "I live not in myself, but I become
Portion of that around me; and to me
High mountains are a feeling; but the hum
Of human cities torture."
—Byron's *Childe Harold's Pilgrimage.*

however, to determine the factors involved in the growth of each city—to find why some urban communities double their populations in a decade, while others expand slowly and sedately. At the close of the Revolutionary War Boston and Charleston were about the same size. Why has one forged steadily ahead until it has become a great urban metropolis, while the other is not even numbered among the first one hundred cities of the United States? At the beginning of the present century Milwaukee was a city of two hundred and eighty-five thousand. So was Detroit. Today Milwaukee's population is slightly over the half million mark; Detroit has become a towering giant nearly three times as large. Why has one city so far surpassed its neighbor? Why do some urban centers expand and prosper, while others grow slowly or not at all? Why have some spots been chosen as the sites of cities, while others have been passed by?

These questions cannot be answered in a single phrase. So many factors are involved that no one formula can be devised to cover all cities. Some urban centers owe their original location and their subsequent growth chiefly to political considerations. The sites of Washington and many of the state capitals were chosen more or less arbitrarily, and their subsequent development has been but a reflection of the prosperity of nation and state. Paris and Berlin owe their importance in no small measure to the fact that they are the political centers of great nations. In Australia the jealousies of Sydney and Melbourne have resulted in the creation of a new city, Canberra, built to order to become the capital of the commonwealth. Other cities have been hampered in their development by political restrictions, or stimulated by political favors. For years Seville possessed a monopoly of Spanish trade with the New World, a gift from the Spanish Crown when Spain was at the height of her glory. As a result Seville prospered and became great, while most of the other Spanish cities remained poverty-stricken and stagnant. At one time Nagasaki was the only point of communication between Japan and Europe, the other cities of the Island

Empire being closed to foreign trade by royal decree. It was during this period that the foundation was laid for Nagasaki's present commercial power. But the importance of political considerations in selecting city sites and influencing city growth must not be overemphasized. Most of the forces that influence urban development are beyond the control of the politicians. A Washington or a Canberra may be built to order at the fiat of a body of legislators, but such instances are rare.

The resort cities form another small group. Some municipalities have grown and become famous without industry, without commerce worthy of the name, without political influence, because they possess marked natural advantages as pleasure or health resorts. A splendid bathing beach, a pleasant climate, the presence of mineral waters—any of these things, coupled with accessibility, may be sufficient to insure the development of urban centers. A score of names come readily to mind—Atlantic City, Miami, Deauville, Biarritz, Baden Baden, Spa and many another.

Raw materials are far more important than bathing beaches, however, in determining the location and development of cities. Mines count for a great deal more than mineral water. That is why great industrial cities spring into being near the sources of power. Pittsburgh is in the very heart of one of the largest coal mining regions of the world. Breslau owes its industrial importance in no small measure to its proximity to vast coal deposits. "White coal"—water power—has made possible the development of most of the manufacturing cities of New England.

Birmingham, the great industrial beehive of the South, has taken its place among the larger cities since the discovery of important iron and coal deposits near by. Factories must have power, and industries will concentrate wherever power is abundant and cheap.

But most significant of all in determining the location of cities is the factor of transportation. Most of the large urban communities of the world are important commercial centers, for industry is largely dependent on commerce. Cities with fine harbors, cities situated on broad

navigable rivers or at the confluence of rivers, cities with splendid rail communications—such communities possess a tremendous advantage over rival cities less fortunately situated. Ability to handle water-borne commerce is most important, for water transportation is so cheap that railroad freight service can offer only a limited competition. Cast your eye over the map of Europe, and note the location of its principal cities. Practically every important urban center is situated on some great natural avenue of commerce. What the Thames has done for London the Seine has done for Paris. Without the Spree, the Tiber, the Vistula, the Danube, how important in world affairs would be Berlin, Rome, Danzig, Vienna?

It is true, of course, that these cities laid the foundations of their greatness before the days of railroads, when the only alternative to sending goods in ships was to trust them to vehicles drawn by horses over abominable roads. But in the United States, a new country whose principal cities have attained metropolitan proportions during the era of greatest railroad building, rivers and harbors have played an equally important part in determining city location and city development. All large American cities, save only Indianapolis and Denver, are situated upon navigable waters. Even the industrial centers are as dependent on commerce as on the manufacturing which is their *raison d'être.* They must have cheap transportation for the goods they make.

Cities, therefore, develop at strategic points along the avenues of commerce. Where navigable rivers meet they are likely to be found. So Pittsburgh in the New World and Strassburg in the Old have grown and prospered. The crossing places of rivers often become the sites of cities. St. Louis and Omaha are excellent examples. So are London and Paris. The heads of lakes or any indentations along lake shores where lakes meet land routes are apt to be chosen as sites for cities. Chicago, Buffalo and Duluth are commercial centers of this type. At the headwaters of navigation occurs a natural break in transportation. Goods must be transferred from steamers to freight

cars or motor trucks. Here, then, is a demand for services, a demand that is sure to be met by the growth of urban communities. Albany is at the headwaters of the Hudson River; Trenton is at the far end of the navigable portion of the Delaware. For the great ocean liners the Delaware River becomes too shallow thirty miles below Trenton, and it is at this point that Philadelphia has developed into a commercial and industrial metropolis. A fine natural harbor with ample depth and adequate protection from the elements will go far to insure a city's growth. New York, Boston and San Francisco owe their development in no small measure to their magnificent ports.

Nor must the significance of land routes be forgotten. Wherever important highways cross or converge cities will be found, meeting the need for men to transship goods, to store them, to buy and sell them. Some land routes are across level plains, but along their courses the greatest cities seldom develop, because trade can be drawn too readily to other highways, perhaps parallel highways across the same stretch of country. The paths of the rivers are charted by nature, but the courses of the railroads and the motor roads across the plains are fixed by nothing more stable than the whim of man. When the highways and the railroads are flung across mountain ranges, however, man is no longer free to choose his route as fancy dictates. He must follow the way carved for him by nature, paralleling the mountains for hundreds of miles if necessary until he comes to a gap or pass, a break through which the pent-up stream of commerce may flow unhampered. And such a gap is obviously a strategic place for a city. It is the gateway to the land beyond. A location of this kind has shaped the destiny of Vienna.

There are other factors, however, which materially influence the growth of cities. Every urban community is vitally affected by the size and economic importance of its hinterland—that strip of country whose products it markets and whose needs it supplies. If that territory is large and prosperous the city's residents may justly regard

the future with optimism. For they know that as the back country thrives and grows great its needs will be ever increasing, and that it will turn to the city for the satisfaction of its ever multiplying wants. The metropolis, the super-city with its teeming millions, must be so situated as to draw to itself the trade of a vast territory. "A city whose main business is commerce must be so placed that it is the natural catch basin for the produce of surrounding regions. Trade must flow to it more easily than to any neighboring center. The larger the natural catch basin, the larger the commercial center. Such basins are usually easy to locate on a relief map because they are primarily the natural drainage basins, for man utilizes nature's routes wherever possible, either floating goods downstream or building roads in the valley bottoms. New York City is a famous example of a commercial city which owes much of its supremacy over such neighbors as Philadelphia, Providence, and Boston to the Hudson-Mohawk Valley, which penetrates the Appalachian highland, thus giving easy access to the vast level region extending as far as the Rocky Mountains. St. Louis and New Orleans are other examples of commercial centers whose position depends on the relation of trade routes to river basins. They cannot rival New York and Chicago because their main routes run southward instead of eastward toward the most active regions of the United States and Europe."[8]

Men can do something to remove the handicaps imposed by nature. By constructing canals they can open new avenues of commerce and draw trade to favored cities. By dredging and by building giant breakwaters they can transform shallow, unsafe ports into safe, commodious harbors. By blasting their way through a mountain barrier they may greatly reduce the length of a railroad journey, destroying the prosperity of one city and bringing new trade to another. But only within very narrow limits are men able to alter the plans of nature. Some cities, by

[8] Huntington and Williams, *Business Geography*, pp. 221-22. This volume contains an excellent discussion of the geographic factors which determine the location of commercial centers.

virtue of their strategic location, are destined to become great urban centers. Others are marked with equal certainty for perpetual obscurity. Every city and town in the land has its group of enthusiasts—members of Chambers of Commerce, Rotary Clubs, and the like—whose faith enables them to vision a glorious future for their community. Yet most of these enthusiasts are false prophets. Some day they will learn that cities are like the children of men. Many are called great, but only a few are chosen to rise above mediocrity.

Will Cities Stop Growing?

Every decade witnesses a new and more remarkable urban expansion. Twenty-five or more of the world's largest cities have populations exceeding a million; New York and London have passed the five million mark. New York, in fact, is laying plans for the day when it will be a vast metropolis of fifteen million persons.[9] Is there any limit to the growth of a great city? Will the mere weight of numbers eventually make our metropolitan centers so cumbersome as to shut off further expansion? Or will they continue to grow in the future as they have grown in the past, until they become urban Titans with populations of thirty or forty million?

There have always been some persons with ready tongues and facile pens to demonstrate to their own satisfaction that no city could possibly grow beyond certain population limits. David Hume, the Scotch philosopher, set the maximum at 700,000. In his essay "On the Populousness of Ancient Nations," he pointed out that Carthage, Pekin, Constantinople, London and Paris had never gone much beyond the seven hundred thousand mark, and concluded "from the experience of past and present ages that there is a kind of impossibility that any city can ever rise much beyond this proportion."[10]

[9] See the studies made under the direction of the Regional Plan of New York and Its Environs.

[10] Essays (Edinburgh, 1817), Vol. I, p. 430, quoted in Weber, *op. cit.*

Sir Willian Petty, the English statistician, had a broader view than Hume, although he wrote a century earlier. Petty fixed the limit at five million persons.[11] If a city grew to larger proportions, he thought, the problem of feeding its population would defy solution. Food could not be brought from a greater distance than thirty-five miles. Little did Sir William dream of the changes in transportation that were to place the world's food supply at the disposal of every great metropolis! The difficulty of procuring foodstuffs is no longer a limiting factor. When Paris needs wheat, she may draw upon the granaries of Argentina, Australia, the United States and Canada. If her purse is full her stomach need never be empty.

The limits of a city's growth are no longer fixed by the local food supply, but by the economic importance of the region it serves. Boston's development is measured in terms of New England's factories and New England's trade. The growth of Portland, Oregon, is a reflection of the development of the Columbia River Valley. In a sense the rise of New York to metropolitan greatness represents the growth of American prosperity, for New York serves the nation. It is safe to say that the expansion of modern cities is restricted only by such natural handicaps as poor harbors, mountain barriers and the like, and by the economic development of their hinterlands. Good rail and water communications and a prosperous back country are sufficient to guarantee the growth of any urban community. A city so favored may sprawl its homes over the surrounding countryside and fling its skyscrapers heavenward with the assurance that the sky is the limit.

SELECTED REFERENCES

Anderson, Wm., *American City Government,* New York, 1925, Chap. II.

Cox, H., *Problems of Population,* New York, 1923.

Goodnow, F. J. and Bates, F. G., *Municipal Government,* New York, 1919, Chap. I.

[11] "Essays on the Growth of the City of London," in *Essays on Political Arithmetic,* 1755, p. 16.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. VI.
Regional Plan of New York and Its Environs, *Population, Land Values and Government,* New York, 1929.
Reuter, E. B., *Population Problems,* Philadelphia, 1923.
Spengler, Oswald, *Decline of the West,* 2 Vols., New York, 1926-28.
Weber, A. F., *The Growth of Cities in the Nineteenth Century,* New York, 1899.

Beard, Chas. A., "City's Place in Civilization," *National Municipal Review,* December, 1928.
Haig, R. M., "Toward an Understanding of the Metropolis," *Quarterly Journal of Economics,* Vol. XL.

CHAPTER III

HISTORY OF AMERICAN CITY GOVERNMENT

The English Background

THE story of the development of American city government properly begins in England rather than in the American colonies. To England we must turn for the origin of those traditions, customs and habits of thought which shaped the form of our municipal governments throughout the colonial period and during the first years of our national life. The colonists were overwhelmingly of English stock,[1] and it was but natural that in government as in other matters they should make use of familiar devices. They made certain changes, of course, to meet altered conditions; but it may safely be said that early American municipal government was simply the English municipal government of that day, brought over from the mother country.

The English borough[2] of the mid-seventeenth century needed no very complicated government. With the single exception of London no English town could boast of a population in excess of thirty thousand, and very few attained that figure. No two boroughs were governed exactly alike, but everywhere the principal features were the same. The powers of government were vested in a single body—the borough council. Two grades of officials, aldermen and councilmen, composed its membership. The aldermen also

[1] The first census, taken in 1790, indicates that more than four-fifths of the total white population were at that time of English extraction. Cf. "A Century of Population Growth in the United States," report of the United States Census Bureau, p. 116.

[2] In England the term *city* is commonly reserved for a town which is or has been the seat of a bishop. In more recent years some of the great industrial centers have also been designated as *cities*. A *municipal borough*, however, is any incorporated urban area, and therefore corresponds to the American *city*.

acted as magistrates, and this seems to have been the chief reason for distinguishing them from the other members of council, for both aldermen and councilmen were commonly chosen for life. They sat as a single group, and the voting power of each man, be he alderman or councilman, was the same. The presiding officer of the council was the mayor, usually chosen by that body from among its own members.

The mayor was also a magistrate, and his position was one of great dignity. He was not an administrative officer, however. The work of administration, what little of it there was, came under the supervision of committees of the council. The names of these committees suggest the nature of the services performed by the early English boroughs. There was usually a committee on markets and fairs, and another entrusted with the care of the town property. The watch committee directed the work of preserving the public peace. Such matters as sanitation, public works, and police protection in the modern sense of the term were unknown. Nearly all the boroughs were close corporations—that is, they were controlled by a little group of men, aldermen and councilmen, who voted among themselves to fill every vacancy that occurred in their numbers. The people of the boroughs had, as a rule, no voice in the policies of their local governments, and no opportunity to select the men who governed them. Yet they were reasonably satisfied, for though they were subjected to the petty tyranny of council, they were protected in large measure from the infinitely more irksome tyranny of the officers of the central government. In every borough certain of the residents were designated as freemen. The title of "freeman" was obtained by birth, by purchase or in some other way, according to local custom, and it carried with it a number of special privileges. It gave the right to vote for members of Parliament, and, in a few of the more liberal boroughs, the right to vote for local officers. More important, it meant freedom from burdensome trade restrictions and from payment of numerous special taxes. "The freedom of the city" is today an empty phrase used only in welcoming distinguished visitors; but when the free-

dom of the city was bestowed upon a man in old England he received a really valuable gift. He became a freeman, possessing rights and privileges withheld from the masses outside the charmed circle. The borough charters were gifts of the King and not of Parliament. Prior to 1688 the royal authority over the boroughs remained virtually unchallenged; after that date the King continued to incorporate, but borough powers and obligations were sometimes altered by act of Parliament.

American Colonial Boroughs

Such in brief was the system of English borough government during the period of early American colonial development. It was the system with which the colonists were familiar and to which they turned when urban centers began to spring up. In those early days the growth of cities was very slow. There was virtually no manufacturing, and commerce developed at a sluggish pace. The great majority of the people were agriculturalists, unmindful of cities and unconcerned with city problems. Not until 1686, more than three-quarters of a century after the founding of Jamestown, did any city in the colonies worthy of the name receive a charter conferring upon it the rights and privileges of an English borough. In that year New York was given a charter confirming its "ancient customs, privileges, and immunities," and became the first city of the New World.[3] Boston was larger, but still retained the town meeting form of government—a form to which it clung until the nineteenth century. At the time of its incorporation New York was little more than an overgrown village. Its exact population cannot be given with accuracy, but four thousand inhabitants would be a rather

[3] Strictly speaking, New York was not the first of the colonial boroughs, for in 1641 a charter had been granted to Agamenticus, Me., a little village of some two hundred souls, and six years later Kittery, Me., was incorporated. These two charters were never highly regarded by the inhabitants, however. The Kittery charter never went into effect, and though the charter of Agamenticus was nominally in operation for a period of eleven years, the people of the town continued to arrange for their own government with but slight consideration for charter provisions.

liberal estimate. Most of the other towns incorporated during the colonial period were even smaller.

Within a few months after Governor Dongan had granted to New York its first charter he issued a somewhat similar document to Albany. Five years later Germantown and Philadelphia received charters from William Penn, proprietor of Pennsylvania. This was not the beginning of a period of numerous incorporations, however. Other towns followed but slowly in the footsteps of the New York and Pennsylvania boroughs. In fact, during the entire colonial era not more than two dozen urban communities were granted charters, and of that two dozen several made little use of their corporate powers. Germantown forfeited its charter, for example, because officers could not be found to serve. The townspeople of New England did not care for charters setting forth powers and obligations in black and white, and establishing a somewhat rigid framework of government. They preferred the less formal and more democratic town meeting, and the home government never attempted to compel them to accept charters for their towns. In fact, virtually every incorporation was made at the request of the people themselves. The people of a community decided that their interests would best be served by procuring a charter; frequently their leading citizens framed the charter and decided upon its most important provisions; and usually the governor, representing the royal authority in the colony, acceded to their request.

One must not be misled, however, by frequent references to the influence of "the people." Democracy was not a product of the seventeenth century, nor of the first half of the eighteenth. The people—those people who voted at elections, who had a voice in their local affairs, whose opinions carried some weight with provincial legislatures and royal governors—were not the vast mass of the inhabitants at all. They were the "best" people, a comparatively small group of the upper middle and well-to-do classes. The privilege of voting was accorded only to those persons who possessed a certain amount of real or personal property, and, in some colonies, to those who met religious or other

qualifications. The religious tests were applied most commonly in New England, but even in the other colonies the suffrage was frequently restricted to Protestants. Many an elector was disfranchised for refusal to express his belief in "Jesus Christ the Son of God and Saviour of the World." Nearly everywhere property qualifications of some sort existed, but the exact nature of these qualifications varied from borough to borough. In Albany every person who owned real property, whatever its value, was entitled to vote; in New York City, on the other hand, a "freehold" of less than £40 did not carry with it the privilege of voting. A number of boroughs conferred the franchise upon those who possessed real *or personal* property, the required amount ranging from £10 or even less up to £50. The acceptance of personal property in lieu of real estate was highly significant, for many a person who owned neither house nor lot could lay claim to personal effects worth a few pounds. Under English law the ownership of real estate was necessary to meet the property qualification; when the colonists in many of the boroughs granted the right to vote on the basis of personal as well as real property they broadened the franchise materially and paved the way for municipal democracy. Government was still in the hands of the "best" people, but the "best" people formed a considerably larger percentage of the whole.

In still another respect American borough government differed from its English prototype. Close corporations were the rule in England; in the colonies they were the exception. The typical English borough council was a self-perpetuating body, filling all vacancies that occurred in its membership by vote of the remaining members. In America from the beginning the borough councils were popularly chosen. There were only three close borough corporations in the colonies—Philadelphia, Annapolis and Norfolk. The royal authorities never objected to popular participation in the affairs of the colonial boroughs. Indeed, there was no reason why they should. In England it was different. There the King was vitally interested in re-

stricting the suffrage within narrow limits, because the borough voters had representation in Parliament. Too large a measure of popular control might have been a menace to royal prerogatives. But what did it matter if the colonists chose to elect their borough officials? What did it matter if they gave the franchise to impoverished rascals whose only property was a paltry £10 of personal effects? They had no representation in Parliament, no voice in the affairs of the mother country. They were not likely to question the whims of the King, unless their own interests were directly affected. And so within reasonably broad limits they were permitted to settle their local problems in their own way. Though they fashioned their borough governments after the English plan they did so from choice rather than from compulsion. In New England the English system of municipal organization was never popular, and there it never gained a foothold.

South of New England the government of a typical borough consisted of a mayor, a recorder, a small number of aldermen and an equal or larger number of councilmen or assistants, as they were variously called. As in England, the council consisted of both aldermen and councilmen, together with the mayor and the recorder, all sitting as a single group. Even then council was a small body, for the number of councilmen seldom exceeded twelve, and as a rule there were still fewer aldermen. Councilmen and aldermen alike were commonly chosen by popular vote for one-year terms, though in the close corporations they served for life. Since the members of council were expected to serve without pay, following the English tradition, candidates for office were not numerous. It was often found necessary to penalize those who refused to assume the responsibility of public service. The charters of Philadelphia, New York and other boroughs stipulated that fines should be imposed upon those failing to accept office, and frequently the fines were paid in preference to serving.

The people of a colonial borough had no voice in the selection of their mayor. He was chosen in most cases by the colonial governor. One-year terms were provided

by practically all the charters, but reappointments were frequent. It was not uncommon for a mayor to serve eight or ten years. Nor was it at all unusual for a mayor to serve, ex officio, in several other capacities. In Albany he also acted as coroner; in Philadelphia he was treasurer and inspector of bread bakeries. And yet his powers were small indeed as compared with the powers exercised by the mayor of a modern American city. The colonial mayor was, first of all, a presiding officer. He presided over the deliberations of the council, though usually he had no vote except in case of a tie. In some of the boroughs he appointed a few minor officers. He welcomed distinguished visitors with due pomp and ceremony. Frequently he was given power to license tavern keepers and others, and though he received no salary he was sometimes permitted to keep the funds thus obtained. It was not necessary to impose fines for failure to serve as mayor. The mayoralty was considered an office of great honor, even though it carried with it a modicum of authority; and it was eagerly desired by many of the leading citizens in every borough.

The recorder was the legal adviser of council. In modern parlance he would be called the city solicitor. And yet it was not customary to require that he be "learned in law"; in fact, Norfolk was the only colonial borough whose charter contained such a provision. Like the mayor, the recorder was commonly appointed by the governor, although there were some exceptions. In Trenton, for example, he was chosen by the common council. Everywhere he was a member of council, and his influence over that body was considerable. He also had judicial functions.

The council was the seat of local authority. It not only made the borough ordinances but in addition it enforced them. It controlled both legislation and administration. The central authorities took care, however, to limit the legislative powers of the borough councils in a number of ways. All ordinances had to be in harmony with the laws of England and the laws of the general assembly, and they remained in force for but a year or even a shorter period unless ratified by the governor and council. In practice

it was found easier to re-enact the entire body of ordinances from time to time than to secure the approval of the higher authorities, and as a result each borough council went through the motions of re-passing its by-laws every six months or every year, according to the provisions of its charter. The consent of the governor and council was seldom asked. This evasion seems to have met all the requirements.

As pointed out by Professor Fairlie in his careful study of colonial boroughs,[4] the character of the legislation was much the same in every community. It was found necessary to prevent cattle and other animals from roaming at large and obstructing the King's highways. Fast driving was prohibited, even in those early days. Proper observance of the Sabbath was required by law in many boroughs, and other stringent regulations of morals were common. Ordinances were frequently enacted fixing the price at which bread and meat might be sold. The public markets were also a common subject of legislation.

Much of the council's time, however, was devoted to supervising the details of borough administration. This work was done through committees, so that each member of council was given opportunity to become familiar with some phase of the borough's activities. The administrative services were far from numerous, and no great technical skill was required, so that the system worked fairly well. The early colonial boroughs were chiefly business corporations conducted for the general welfare, and they engaged in commercial enterprises on a large scale. They built markets, docks and wharves, and established ferries, leasing them to private individuals. Often the municipal ferries were conducted in competition with ferries privately owned. These various activities netted a considerable revenue. Street paving and water supply also came under the jurisdiction of council. It was customary to require each householder to pave that portion of the street in front of his own property, on penalty of having the work done by

[4] Fairlie, John A., *Essays in Municipal Administration*, p. 78 et seq.

the borough authorities at his expense. The pumps which supplied the boroughs with water were sometimes left in private hands, but in that case they were subject to a measure of public regulation. The matters which today claim most of the attention of our cities—education, public works, public health, police protection—were entirely neglected or left to private initiative.

The mayor, the recorder and the aldermen usually found it necessary to devote a considerable portion of their time to judicial matters. There was no separate borough judiciary, and these officials were given judicial duties in addition to their obligations as legislators and administrators. Each of them was a justice of the peace, with jurisdiction over minor civil cases and authority to commit persons accused of crime. Sitting as a group the mayor, the recorder and the aldermen constituted a court, with extensive civil and criminal jurisdiction. In many boroughs they were also made ex officio members of the county courts. To a considerable extent, therefore, all the functions of colonial borough government were vested in the same persons. There was no clear demarcation of powers. The same men enacted laws, carried them into effect, and dispensed justice under the laws they had framed.

Each borough possessed a charter enumerating its rights and obligations. The English boroughs secured their charters from the King, and in like manner the colonial boroughs of America obtained their charters from the King's representatives—the royal governors or, in the proprietary colonies, the proprietors. Before long, however, the colonial assemblies fell into the habit of amending the charters bestowed by royal authority, and in this manner they gradually obtained a measure of control over municipal affairs. They did not abuse this privilege. In most cases they used it to grant additional powers to the boroughs at the behest of leading citizens. But they established the principle of central legislative control over local affairs, and paved the way for unreasonable state interference in matters of local concern—a practice that has long since become characteristic of American government.

The Post-revolutionary Period

After the Revolution the state legislatures fell heir to the royal privilege of creating municipal corporations. This development was natural enough, for the people were distrustful of gubernatorial authority, and restricted it on every hand. They still had vivid memories of their bitter struggles with the royal governors. But the new arrangement—legislative incorporation of municipalities—established the principle that the charter of a city was a state law, to be amended by the legislature at its pleasure just like any other state law. And since each city was restricted to the exercise of powers enumerated in its charter, the demands upon state legislatures for charter changes were numerous. In time the legislatures formed the habit of providing in minute detail for virtually every phase of city government, no matter how trifling. They forced upon the cities obligations which city folk had no desire to meet. At first responsive to the wishes of the municipalities, they gradually substituted their own whims for local preferences and local desires. The state legislatures were everywhere dominated by the representatives of rural districts, and most of these men neither knew city life nor cared about city problems. Proud, intolerant of new ideas, suspicious of all things urban, they tyrannized the city dwellers after a fashion that made the tyrannies of George III seem mild indeed. In colonial days a borough had been fairly safe from unreasonable interference in its affairs. Its charter had been granted only at the behest of its inhabitants, and altered only because they desired the change. But with the passing of the old order the old security disappeared.

The transition did not come about overnight. The new charters granted immediately after the Revolution closely resembled the old. The powers conferred were much the same. The structure of city government did not at once undergo any major changes. From the very outset of our national life, however, American cities began to drift away from the English model. No longer was the mayor usually appointed by the governor of the state as he had formerly

been chosen by the governor of the colony. At first he was generally selected by the aldermen, or by all the members of council. But during the thirty years following the close of the Revolution the office of mayor was made elective in at least ten cities (towns would be the more appropriate word), and in 1822 Boston, then a city with a population of forty-seven thousand, followed their example. The trend of the times was unmistakable. The mayor of St. Louis was made an elective official only a few months later, and two years afterward Detroit came into line. By the middle of the century popular election of the mayor had become the almost universal rule.

In making the office of mayor elective state legislatures were undoubtedly influenced by the example of the new state constitutions. What would serve well the purposes of the state would also serve well the purposes of the city, they reasoned. The city was a miniature state, a commonwealth on a small scale, and the structure of its government ought to correspond to the structure of state government. The governors were popularly elected; by applying the analogy it became clear that the mayors ought also to be popularly chosen. The influence of state constitutions is traceable also in many other clauses of the charters granted during the half century following the Revolution. In all but three of the states the legislatures were two-chambered bodies from the very beginning, and within a few years these three likewise adopted the bicameral plan. The city councils, on the other hand, continued for a time the single-chamber arrangement they had inherited from colonial days; but in 1796 the charter of Philadelphia was amended to provide for a legislative body of two houses, the select and common councils, and the following year Baltimore adopted a similar plan. By 1840 the two-chambered council had become typical of American city government. Some of the smaller cities of the East, and a number of Western municipalities of all sizes, including Chicago and Cleveland, never made use of the bicameral system, but they were the exceptions.

Checks and Balances

The men who framed the first state constitutions and the city charters of the period based their work on those twin dogmas of government, the theory of the division of powers and the doctrine of checks and balances. According to their reasoning government was a "necessary evil," affording a few men the opportunity to crush the liberties of their fellows. Against this danger the people must be always on guard, dividing power into such minute particles and distributing it among so many individuals that no one man would be able to abuse his authority. Every power they granted must be checked and counterbalanced by some limitation on its use, so that no person, however anxious he might be to sweep aside constitutional safeguards, would be in a position to disregard them. The fathers applied these doctrines zealously wherever possible. In the field of state government they created legislative bodies of two houses, so that each would act as a check upon the precipitate action of the other. They restricted so narrowly the powers of the governors that Madison declared in 1787: "The executives of the states are in general little more than ciphers." [5]

And so in the drafting of city charters they applied those same principles, in which they so ardently believed. The two chambers of the council were designed as a check upon each other, and the independently elected mayor was intended to be a check upon them both. Yet the mayor must not be permitted to become too powerful, else he might become a despot. The supervision of administration had passed entirely out of the hands of council in most cities by 1850, and this work might well have been given to the mayor. Instead, however, it was transferred to independently elected heads of administrative departments. In time the principle of electing the more important administrative officials received almost universal acceptance, and the era of unrestrained democracy was in full swing. Surveyors, engineers, auditors, marshals, street commissioners,

[5] *Elliot's Debates,* Vol. V, p. 327.

and superintendents of markets were popularly chosen, not to mention the more important officers whose candidacy might with some reason be thought to awaken public interest. Responsibility for satisfactory administration was therefore scattered among a large number of unrelated agencies, and no attempt was made to co-ordinate their work. The mayor was the logical person to bring order out of this administrative chaos, but the people refused to trust him. They pinned their faith instead to numerous elective officials and to frequent elections. Yet they did give the mayor a qualified veto over the acts of council,[6] Baltimore conferring the veto power upon its mayor in 1796. Other cities were slow to follow, however, and it was not until the middle of the nineteenth century that the mayor's veto power was firmly established. As the mayor became more distinctly an administrative official he lost his right to preside over the sessions of council.

By 1835 democracy was firmly established. It was not the mild-mannered, cultured democracy of Thomas Jefferson, but the uncouth, aggressive democracy of Andrew Jackson. Distinctly it was the triumph of the people. One might almost be tempted to dub it the rule of the rabble. The charters granted to the cities immediately following the Revolution had carefully retained control of municipal affairs in the hands of the property owners by the simple expedient of denying the franchise to all others. But one by one the restrictions on the right to vote were swept away, and in the early years of the nineteenth century universal white manhood suffrage became the rule. About the same time foreign immigration began to assume large proportions. In the year 1832 sixty thousand immigrants were admitted into the United States—nearly three times the average of the five preceding years. The newcomers were for the most part from the peasant class. They were ambitious but ignorant, without any experience in the art of self-government, and without any concept of its obligations. They were easily misled by plausible theories,

[6] In 1830 the mayor of New York was given the power of absolute veto.

though it must be confessed that in this respect they differed but little from their native-born neighbors. One of the most popular theories of the day was the doctrine of rotation in office. "Public office is a prize and not a trust," said the political philosophers in effect. "Any man is capable of filling any position in the public service, so let us give every man, in so far as possible, the opportunity to hold office and live for a time at public expense. To that end let us provide short terms, and make officeholders ineligible to succeed themselves." This doctrine received widespread approval, and everywhere its effects were felt. One-year terms were the rule, and seldom were men permitted to remain in office long enough to prove their worth. Everywhere the common man was glorified, and there can be little doubt that the men generally elected to office were sufficiently common to satisfy the most rabid partisans. The concept of public offices as prizes to be distributed among the faithful proved particularly intriguing. "To the victor belong the spoils of the enemy," declared Senator Marcy in 1832, and since that time his name has been linked with the spoils system, but he only expressed the sentiment of his day. In virtually every city the triumph of the opposition at the polls was the signal for a complete turnover in the municipal working force, from the mayor to the janitor of the city hall. Incompetents and numskulls were summarily dismissed to make way for other incompetents and numskulls who happened to have cast their lot with the winning faction.

This unfortunate attitude toward public office proved particularly disastrous because during the thirties and forties of the last century the cities of the United States were beginning to undertake for the first time enterprises requiring a considerable degree of administrative ability and technical skill. Under the spoils system they could secure neither, and yet the work had to be carried on. The streets of most municipalities were lighted with oil lamps, and in a few gas had been introduced as an illuminant. The first steps were taken to supply the cities with adequate water supplies and professional police protection. Even

public sanitation received some attention. The development of these services was irritatingly slow and far from satisfactory, but that they developed at all is surprising. Had it not been for the rapid growth of cities and the increasing complexity of city life, making necessary some solution of the new city problems, municipal administration would inevitably have remained dormant in the grip of the spoilsmen.

City Government in 1850

By the middle of the nineteenth century, therefore, American city government had lost much of its early resemblance to its English prototype. The council had become a bicameral body concerned only with legislation. The mayor, now popularly elected, had lost the right of presiding over council meetings, but had gained a measure of control over the municipal administration. He was compelled to share his administrative powers, however, with a large number of popularly chosen administrative officials. In most cities, therefore, administration was hydra-headed, and it was impossible to fix responsibility on any one person. Short terms were the rule, and reelection was infrequent. Current political theory demanded rotation in office. The spoils system had become firmly entrenched, and public office was generally regarded as a suitable reward for services to the party. Virtually all religious and property restrictions on voting had been swept away, and adult white manhood suffrage had become the rule. Only a few states retained property qualifications for voting, and religious discriminations had disappeared entirely. What the electorate thus gained in numbers it had lost in quality. The enfranchisement of thousands of persons, native Americans as well as foreign born, whose ignorance made them an easy prey for the professional politicians, was not calculated to elevate the tone of municipal government. The early fifties saw the spoilsmen in power in virtually every large American city.

The "good people" of the average urban community—the well-to-do men and women who devoted their time to

their own affairs and made no attempt to understand the problems of government—were finally shaken out of their indifference. They realized that somehow they had lost control of their municipal affairs, and that they had virtually no voice in their own local government. In desperation they turned to the state legislature, and asked that state power be used to check local corruption. At the same time other groups were also coming to the state capital with requests for state intervention in local matters. Every clique of city politicians defeated at the polls tried to carry the fight to the state legislature. Every representative of special interests seeking favors from the city tried to secure the passage of a favorable law. In every state the legislature received these frequent invitations to meddle with local matters. And in every state the legislature, nothing loath, accepted the invitations. In time it began to make a regular practice of regulating municipal affairs of every description without waiting to be asked. State interference had been fairly common since the close of the Revolution,[7] but after 1850 it came to be the regular order of the day. Special laws were passed for each city, regulating in detail every phase of municipal activity. No matter was so trivial that it could be certain of escaping the attention of the legislature. Even the salary scale for minor city employees was fixed at the state capital. Nor did the state lawmakers confine themselves to matters of legislation in regulating municipal affairs. They assumed control over various phases of city administration, and appointed boards to conduct the affairs of city departments. In this manner many popularly chosen department heads were replaced by state-appointed boards. Ten or a dozen of the largest cities had lost control over their police departments by 1880, and some of them had been deprived of any voice in other phases of municipal administration. In the smaller urban communities the trend was even more pronounced.

The control of city administration by state-appointed authorities resulted in general dissatisfaction. The state

[7] See p. 57.

officials proved equally incompetent and equally corrupt, and even less responsive to local sentiment than the henchmen of city bosses who had formerly served as department heads. There were some notable exceptions, of course—some instances of disinterested, loyal service by state-appointed boards. But their work did not still the popular clamor which soon arose for a larger measure of local control. The people were less interested in good government than in self-government. State meddling might give the cities far better administration (though in practice it seldom did), but it aroused discontent. It gave the final decision over important local matters to persons chosen without regard to local sentiment, and in time it proved so unpopular that the fight against state interference became almost a crusade. Before the end of the nineteenth century most of the state-appointed boards were abolished and their work transferred to elected boards or to individual department heads appointed by the mayor. The power of state legislatures to pass laws regulating municipal affairs was also restricted in a number of ways. Many state constitutions were amended so as to prohibit "special legislation"—legislation affecting only a single city. In this way it was hoped to secure equality of treatment for all the municipalities of a state. Some states went even further, and gave to the people of the cities the right to frame their own charters.[8]

Corruption in City Government

During the two or three decades following the Civil War municipal government in the United States sank to its lowest level. Those were the days of utter inefficiency, of flagrant corruption, of complete indifference to public opinion. In nearly every city the government fell into the hands of a well-organized group of professional politicians, who used their power to enrich themselves at public expense. They resorted to every known trick in order to retain control. Even though a majority of votes might be cast against them, their subordinates counted the ballots;

[8] This plan was first tried in Missouri in 1875.

and a substantial majority was always returned in their favor. Crude giving and taking of bribes were everyday occurrences. Contracts for the construction of public buildings were awarded according to the size of the "commissions" given the city boss and his subordinates. In New York City the notorious Tweed Ring diverted fifty millions or more of public money to their own pockets between 1869 and 1871. A court house originally designed to cost $250,000 was finally completed with a total outlay in excess of ten millions, most of which was paid over to "Boss" Tweed and his associates. This result was accomplished by the simple process of compelling contractors to submit bills far in excess of what they desired or ever received, the surplus representing the profits of the Tweed Gang.[9] New York did not stand alone, however, in the debauchery and corruption of public officials. Virtually everywhere it was much the same. Persons seeking special favors from the cities were compelled to pay well for the privileges they desired. Businesses asking only to be let alone in the conduct of their affairs were forced to pay tribute to city bosses in order to escape persistent persecution, a persecution that often took the form of frequent arrests for alleged infractions of minor ordinances. Every person on the payroll of the average city, from mayor to scrubwoman, was regularly assessed "for party purposes." The city dwellers of America no longer controlled their government in those dark decades, just prior to the beginning of the present century. They were ruled by little oligarchies of professional politicians, for whose services they paid a heavy price.

A number of factors combined to produce this unwholesome state of affairs. The form of government was in itself a standing invitation to political manipulation. With responsibility divided among a score or half a hundred individuals and boards, some of them popularly elected, some chosen by the mayor with the consent of council, and

[9] The classic account of the Tweed Ring is found in Bryce's *American Commonwealth*, Vol. II, pp. 379-96. In 1927 appeared Denis T. Lynch's excellent volume, *Boss Tweed: The Story of a Grim Generation.*

some selected by state officials, it was impossible to place the blame when things went wrong. Nor did the electorate often try to fix responsibility. The poorer classes, composed chiefly of recent immigrants, lent themselves readily to the schemes of the politicians, and the more prosperous groups were usually too busy to devote much time to civic matters. Private fortunes were in the making, and the industrial and commercial leaders, who ought also to have been the civic leaders, scarcely knew and cared not at all that government by the people had become only an empty phrase.

The cities were more prosperous than ever before in the years from 1865 to 1890. They were growing at a rapid rate, and property values were doubling and trebling almost overnight. At the same time city services were multiplying. Functions which had formerly been left to private initiative were coming to be regarded as properly within the sphere of government. Water supply and fire protection, for example, were transferred in most cities from private to public control. New York City took over its water supply system in 1845, and Boston followed three years later, but in most cities the change occurred during the seventies and eighties. It was during those two decades, also, that such matters as public health and hygiene first began to receive attention from municipal authorities. The cities were spending more money and employing more persons than ever before in their history. Small wonder, therefore, that corruption and maladministration were the rule. The spoilsmen were more active because the spoils were greater. The professional politicians were more determined to win elections because control of the government carried with it a vast patronage. American cities had sown the seed of unsound political theory, and at last they were reaping the harvest of unsound administration.

The development of public utilities in the period following the Civil War also had an unwholesome effect upon the tone of municipal government. These utilities—street railways, gas works, and the like—were in private hands, and their owners desired special privileges from the cities

for which they could afford to pay well. Every utility was required to have a franchise or permit to do business, and the terms of that franchise were all-important. If they gave to a street railway company, for example, the exclusive right to serve a city for a long period of years, virtually free from governmental supervision and at liberty to charge what the traffic would bear, the owners of that company were well started on the road to wealth. Public utility operators, therefore, soon found that it paid to have the friendship of city officials, even if their friendship had to be purchased. Many resorted freely to bribery. Some utility operators, broader visioned or less scrupulous than their fellows, went directly into the game of politics and secured control of the city government. After that, when questions affecting the utilities came before council, it was no longer necessary to parley with each member of council. All the members were the creatures of private interests.

The People Revolt

The story of American city government in the latter years of the nineteenth century makes sordid reading. Graft, corruption, inefficiency were the order of the day. For years the better citizens in most communities accepted the situation with scarcely a word of protest. Effective civic leadership was lacking. But as matters went from bad to worse the smouldering resentment of the people burst into an open flame of revolt. In city after city the party leaders suffered defeat at the polls, and the control of government came into the hands of the reform group. The Tweed Ring of New York City was completely crushed at the election of 1871, and Tweed himself died in prison a few years later. In 1881 the Philadelphia Gas Ring was driven from power, honest Republicans and Democrats uniting to elect an upright, capable mayor. The reformers were similarly successful elsewhere. Yet their triumph was short-lived. If they carried one election they were virtually certain to lose the next. If they succeeded in arousing popular interest during an election campaign, that interest dwindled to the zero point soon after election

day. "Government by indignation," to use Professor Young's apt phrase, proved no match for government by vested interests. Within five years after the reform victory of 1871 in New York City Tammany was back in the saddle, slightly more responsive to public opinion, but holding as firmly as ever the reins of government.

Little by little, however, popular sentiment made itself felt. Against the wishes of the professional politicians many changes were made in the structure of city governments. The office of mayor gained most from these innovations. In the majority of cities the mayor became in fact as well as in name the head of the administration. New York, Boston,[10] St. Louis and some other municipalities gave him the power to appoint and remove department heads at pleasure. They increased his term of office to four years. Other cities followed more cautiously. Everywhere the tendency was to centralize authority and responsibility in the hands of the mayor, who had often proved a champion of good government; but many persons still feared to place too great authority in one man, lest he abuse his trust. So while the mayor was generally given power to appoint the heads of administrative departments, his appointments were commonly made with the consent of council. Removals made by him were likewise subject to councilmanic approval in most cities. The mayor's term of office was commonly fixed at two years, although an increasing number of municipalities shifted to the four-year term.

Meanwhile the civil service reform movement was gaining headway. The public was beginning to tire of paying large salaries to incompetents. People were asking whether any man should be entrusted with important public administrative duties solely because of his ability to control the vote of some ward or precinct. They were questioning the soundness of the old maxim—"To the victor belong the spoils," and suggesting in its place a new precept—"To the competent belong the jobs." The merit system of

[10] In Boston, however, the mayor's nominations must be approved by the state civil service commission.

selecting public employees was established by state law in the cities of New York State in 1884, and one by one the other cities, particularly the larger cities, fell into line. Today ninety per cent of the people living in cities of more than 100,000 inhabitants are protected by civil service regulations of some sort. The efficacy of these laws varies greatly from city to city. Some are strictly enforced; others are so administered as to make evasion easy. Some apply to all city employees; others refer only to certain groups in the city service. But everywhere popular opinion has come to regard municipal administration as a field for expert technicians, and not for the henchmen of political bosses.

The Present Century

Radical changes have come about in the structure and in the spirit of American city government since the beginning of the twentieth century. Virtually everywhere the bicameral council has been abolished,[11] and its place has been taken by a small, single-chambered body, with a membership seldom in excess of twenty-five. The tendency of the late nineteenth century to concentrate authority in the hands of the mayor has become even more pronounced during the last three decades. In cities which still retain the mayor-council type of government—and most cities are in this class—the prestige of the mayor continues to increase, while the influence of council is waning. Many communities, however, disgusted with the waste and inefficiency of the old system, have discarded the mayor-council form of government root and branch. Some five hundred have adopted in its place the commission plan, which concentrates all authority in the hands of a small number of commissioners, usually five, and makes them responsible for the conduct of municipal affairs.[12] Many

[11] Baltimore is the most recent of the large cities to make the change. It adopted the unicameral plan in 1923. New York may still be listed among the cities possessing bicameral councils, for its Board of Estimate and Apportionment, though possessing many administrative functions, is the upper house of council.

[12] See Chap. X.

another city has taken a page from the book of business organization, and has placed in charge of its administration an appointed manager who is intended to correspond roughly to the general manager of an industrial enterprise. This is the city manager plan, now in operation in about four hundred cities and towns.[13]

For more than half a century the people of the cities have waged an incessant fight to free themselves from some of the most burdensome restrictions imposed by state legislatures. In this struggle they have been partly successful. A number of states, led by Missouri in 1875, have granted to their cities a measure of home rule. These cities are free, within the limits imposed by state constitutions and state laws, to frame their own charters and to regulate their own affairs. State authority is still supreme with regard to matters of state-wide concern. In other states, although the principle of municipal home rule has not been accepted, constitutions have been so amended as to restrict the power of the legislature over cities. One of the most common of such restrictions is that cities must be chartered by general law—a provision designed to prevent state legislatures from meddling with every petty detail of municipal administration, since no general law can be framed to meet every local problem. State legislatures still dominate the situation in large measure, however. They still possess considerable authority over matters which every city ought to settle for itself. Constitutional limitations have proved easy to evade. Even home rule amendments, for one reason or another, have failed in many states to give the people of the cities adequate control over their own affairs. It is easy to announce the principle of local self-government, but extremely difficult to apply that principle in a practical way.

All forms of corruption—graft, bribery, election frauds, underworld tribute—play a smaller part in the administration of American city governments than they did half a century ago. Corruption still exists, but it is less flagrant, less brazen. It no longer flaunts itself before the public

[13] See Chap. XI.

eye, and asks defiantly: "What are you going to do about it?" Instead it skulks in dark corners. The professional politicians find it profitable to make at least a pretense of civic virtue. Election frauds occur far less frequently. In many municipalities the civic renaissance has carried into office men of unquestioned integrity and ability, whose work compares favorably with the work of highly trained, highly paid business executives. City employees are commonly chosen by a system of competitive examinations, though in some cities the civil service laws are regularly evaded and appointments are still made on a partisan basis. Even yet the boss is the dominant figure in municipal politics, but he is a very different type of person from the boss of fifty years ago. Today he makes an earnest bid for popular favor. He is "as sensitive to criticism as a prima donna," in Walter Lippmann's colorful phrase.

This chapter would be incomplete without a word of caution. It is very brief—necessarily so. It traces the history of American municipal institutions over a period of two hundred and fifty years, and compresses the entire story into a score of pages. Generalizations abound, and generalizations are always dangerous. Reference is made, for example, to the abolition of boards appointed by the state for the purpose of controlling municipal affairs. Yet the police departments of Boston, Baltimore and St. Louis are still directly administered by state authorities. The municipal council of today is described as a small body with a membership seldom in excess of twenty-five. But the Chicago council has fifty members, and the New York Board of Aldermen has a membership of seventy-one. Exceptions and qualifications might be made to almost every statement. They would serve only to confuse, however, and to conceal the real trend of events. When space is at a premium the trivial must give way to the significant.

SELECTED REFERENCES

Allison, E. P. and Penrose, Boies, *History of Philadelphia,* Baltimore, 1887.

Anderson, William, *American City Government,* New York, 1925, Chaps. II and XII.
Andreas, A. T., *History of Chicago,* 3 Vols., Chicago, 1885.
Bryan, W. B., *History of the National Capital,* 2 Vols., New York, 1914.
Bryce, James, *The American Commonwealth,* 3rd ed., New York, 1914, Vol. I, Chaps. L-LII.
Chang, T.-S., *History and Analysis of the Commission and City Manager Plans of Municipal Government in the United States,* Iowa City, 1918.
Fairlie, J. A., *Essays in Municipal Administration,* New York, 1908, Chap. IV.
—— *Municipal Administration,* New York, 1901, Chap. V.
Grosser, H. S., *Chicago: A Review of Its Governmental History,* Chicago, 1906.
Hollander, J. H., *Financial History of Baltimore,* Baltimore, 1899.
King, Clyde L., *The History of the Government of Denver,* Denver, 1911.
Larson, L. M., *Financial and Administrative History of Milwaukee,* Madison, 1908.
Leonard, J. W., *History of the City of New York, 1609-1909,* New York, 1910.
Matthews, Nathan, *City Government of Boston,* Boston, 1895.
McQuillin, Eugene, *Treatise on the Law of Municipal Corporations,* Chicago, 1911-13, Vol. I, Chap. I.
Moses, Bernard, *The Establishment of City Government in San Francisco,* Baltimore, 1889.
Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. II.
—— *Municipal Government and Administration,* New York, 1923, Vol. I, pp. 84-108.
Peterson, A. E. and Edwards, G. W., *New York as an Eighteenth Century Municipality,* 2 Vols., New York, 1917.
Quincy, Josiah, *Municipal History of Boston,* Boston, 1852.
Reed, Thomas H., *Municipal Government in the United States,* New York, 1926, Chaps. IV-VII.
Roosevelt, Theodore, *New York,* New York, 1891.
Scharf, J. T., *History of St. Louis,* 2 Vols., Philadelphia, 1883.
Snavely, Charles, *History of the City Government of Cleveland,* Baltimore, 1902.
Sparling, S. E., *Municipal History and Present Organization of the City of Chicago,* Madison, 1898.
Sprague, H. H., *The City Government of Boston,* Boston, 1895.
Story, R. M., *American Municipal Executive,* Urbana, 1918.
U. S. Census Bureau, *A Century of Population Growth,* 1790-1900, Washington, 1909.

University of Pennsylvania, Wharton School of Finance and Commerce, *City Government of Philadelphia,* Philadelphia, 1893.

Williamson, C. C., *The Finances of Cleveland,* New York, 1907.

Wilson, J. G., *Memorial History of the City of New York,* 4 Vols., New York, 1892-3.

Greenlaw, E. A., "Office of Mayor in the United States," *Municipal Affairs,* Vol. III, pp. 33-60 (March, 1899).

CHAPTER IV

CITY-STATE RELATIONS

Supremacy of the State

CITIES are the creatures of the state. They are called into being at the pleasure of the state, and may be governed in such manner as the state considers best. In most matters the legislature is the state's mouthpiece, and therefore it is correct to say that in the absence of constitutional limitations the state legislature may regulate city affairs without regard to local sentiment. Its power is supreme. It may create cities, and it may "change, divide, and even abolish them . . . as it deems the public good to require."[1] Legally a city is something more than an agglomeration of homes and factories, something more than a community of men and women. It is a *corporation,* possessing a charter which guarantees it certain rights and privileges, and imposes upon it certain obligations. In this respect it is much like private corporations which have been chartered by the state for the purpose of doing business. The analogy must not be carried too far, however, for private corporations are granted a measure of protection against legislative interference which is denied to public corporations. A group of individuals desiring to incorporate for the purpose of doing business cannot be compelled to accept an unsatisfactory charter, but a group of individuals living in a neighborhood may be forced against their wishes to receive a charter making a municipality of their community. Moreover, a charter granted by the state to private individuals is a contract, and as a general rule its terms may not be changed without the consent of both parties. The charter of a city, on the other hand, is in no sense of the word a contract. In the absence of express constitutional

[1] Dillon, John F., *Municipal Corporations,* 5th ed., Vol. I, p. 143.

provisions it may be amended or even repealed according to legislative caprice, subject only to a few minor restrictions, such as the necessity of protecting the vested rights of creditors. Indeed, there have been instances of the repeal of city charters by state legislatures,[2] and hundreds of examples of state interference with local affairs can be found in every state. It is contended by some that cities have an inherent right of self-government which it is beyond the power of the legislature to destroy. This rule was first announced by Judge Cooley in the famous Michigan case of the People *ex rel.* Le Roy *v.* Hurlbut,[3] but has since been accepted as sound doctrine by only three or four states. Judge Dillon undoubtedly stated the correct rule when he wrote: "It must now be conceded that the great weight of authority denies *in toto* the existence, in the absence of special constitutional provisions, of any inherent right of self-government which is beyond legislative control. The Supreme Court of the United States has declared that a municipal corporation in the exercise of all its duties, including those most strictly local or internal, is but a department of the state.[4] The legislature may give it all the powers such a being is capable of receiving, making it a miniature state within its locality; or it may strip it of every power, leaving it a corporation in name only; and it may create and recreate these changes as often as it chooses, or it may itself exercise directly within the locality any or all the powers usually committed to a municipality."[5]

The Federal Constitution

Since this broad authority of the legislature is restricted only by the terms of the federal and state constitutions, it is worth while to see what limitations are imposed by these

[2] See, for example, the Tennessee law of 1879 repealing the charter of the city of Memphis. This statute is reproduced in Reed, T. H., and Webbink, P., *Documents Illustrative of American Municipal Government*, pp. 219-21. A taxing district was set up in place of the city government, as shown in Reed and Webbink, pp. 331-40.

[3] 24 Mich. 44, 1871.

[4] Laramie County *v.* Albany County, 92 U. S. 308.

[5] Dillon, John F., *op. cit.*, Vol. I, pp. 154-5.

documents. At first glance it might seem that the federal constitution would have no bearing upon the relations of city and state. Every state, of course, is prohibited from passing a law impairing the obligation of contract; but it has already been pointed out that the charter granted a city does not constitute a contract.[6]. There is, however, another clause of the federal constitution more directly to the point. It is the oft-quoted fourteenth amendment, which declares that no state shall "deprive any person of life, liberty, or property, without due process of law." Now municipal corporations, like private corporations, are legal persons. They may own property, they may sue and be sued, they may enter into contracts. Virtually every city does, in fact, own a considerable amount of property. It owns public buildings, parks and playgrounds, not to mention the public streets. It may own wharves, ferries, or an electric light plant. Is this property free from state interference? Is it covered by the guarantee that property shall not be taken without due process of law? May it be taken only for a public purpose, and with payment of just compensation? Or is it held by the city only at the pleasure of the legislature, to be handed over to state officials or to private interests without compensation, should the lawmakers be so minded?

No simple, direct answer can be given, because the court decisions are neither simple nor direct. The problem is so complicated that perhaps a straightforward answer is impossible. Let us suppose for a moment that city-owned property is given exactly the same protection as privately owned property, and that it is equally beyond the control of the legislature. City streets at once cease to be parts of state highway systems. Anyone who uses them without the consent of the local authorities is a trespasser. City jails no longer fit into the state's correctional scheme. They may be used to house offenders against state law only if city officials are so minded. Such a condition of affairs would be intolerable. We cannot permit local whims to

[6] This was made clear in the case of Mt. Pleasant *v.* Beckwith, 100 U. S. 514, 1879.

check the flow of commerce or delay the administration of justice, not to mention a score of other matters. Let us, then, go to the other extreme and declare that the state legislature has plenary power over all municipal property. Under such circumstances city waterworks and city parks, purchased with local funds and serving purely local needs, may be handed over to private interests by the state legislature without the requirement that a dollar of compensation be paid. Apparently we have come no nearer doing justice than before.

In an effort to reconcile the conflicting interests of city and state the courts have made a somewhat vague distinction between the public property and the private property of cities—between property held by a municipality purely as an agent of the state and property held by it in its "private and corporate" capacity. City streets are clearly in the first class; waterworks, gas and electric plants are generally recognized as belonging to the second. But what of parks, wharves, ferries? It must be admitted that the courts of the several states are not in harmony concerning these classes of property. In some jurisdictions they are regarded as public property, while in others they are classed as private. The practical importance of the distinction is that the private property of cities possesses a certain degree of immunity from state interference, while their public property does not. A city-owned street railway, for example, may not be taken by the state without payment of compensation.[7] It may be regulated by the legislature as to rates and service, of course, but that would be true if it were privately owned. Streets, on the other hand, are held by cities in their public capacity, and therefore are entirely under state control. All this is far from satisfactory. It is easy enough to make a distinction between public and private municipal property, but far from easy to apply the distinction. If the judges of the several state courts cannot agree as to the meaning of "property held

[7] Exceptions have even been made to this general rule. See City of Boston *v.* Treasurer and Receiver-General, 237 Mass. 403. This decision was affirmed by the Supreme Court of the United States in 1922. See 260 U. S. 309.

in a private and corporate capacity," how can laymen hope to define the term? Only one fact stands out clearly —a great deal of city property, perhaps most of it, receives a considerably smaller measure of protection against state interference than is given to the property of private corporations or of individuals.

Since cities are corporations, and therefore legal persons, it is sometimes contended that they are entitled to protection under the clause of the fourteenth amendment to the federal constitution which prohibits every state from denying to any person within its jurisdiction the equal protection of the laws. The courts have ruled, however, that cities are not persons within the meaning of this guarantee. The equal protection clause was never intended to limit any state's control over its civil subdivisions.[8]

The Constitutions of the States

It is obvious that American cities have found the guarantees of the federal constitution of little value in guarding them from the domination of state legislatures. State constitutions, however, contain a great variety of clauses specifically designed to prevent legislative meddling in local affairs, and some of these clauses have proved very effective. The early state constitutions virtually ignored the subject of city-state relations. Every state legislature was practically free to deal with local matters in its own way, and only the tradition of municipal independence prevented the state law makers from regulating every phase of city activity. With the passing of years the force of that tradition weakened, and the last barrier to state interference was swept away. Every detail of municipal government was discussed and finally decided at the state capitols. The average city charter set forth at great length what officers the city should have and how they should be chosen; what powers those officers possessed and how they might exercise them; what salaries they were to receive and what fees they might retain; when councils were to meet and what sub-

[8] See Williams *v.* Eggleston, 170 U. S. 304, and Mason *v.* Missouri, 179 U. S. 328.

jects they might consider; what taxes were to be levied, and how they might be assessed and collected. Most matters not specifically regulated by charter were made the subject of special state laws. If the charter of a city merely provided for a municipal health department, without going into the details of departmental organization, subsequent legislation would most certainly specify the number and names of the bureaus in the department, the number of employees in each bureau, their titles, their powers and their salaries. State legislatures definitely accepted the theory that the people of the cities were incapable of managing their own affairs, and so put them in legislative apron-strings.

This condition of affairs proved generally unsatisfactory. Not only were matters of purely local concern settled without regard for local preferences; they were decided by rural representatives whose knowledge of urban needs left much to be desired. Most of the time of the legislatures was wasted in a discussion of subjects which ought never to have come before them. Every session yielded a large crop of special laws dealing with municipal affairs. If a city needed additional powers, or if special interests desired a limitation of the city's powers, the matter went to the state capitol. There it was fought out, with little reference to the merits of the case. And the result would be another law, mentioning the city by name, and extending or restricting the scope of its authority.

All this is not merely past history, though the use of the past tense might indicate otherwise. Many cities in the United States find themselves still in bondage to state legislatures. Many cities still lack the essence of self-government. The state legislature of Pennsylvania, for example, devoted many hours of its 1927 session to a consideration of the salaries of officials and employees of the city of Philadelphia. It increased the salaries of magistrates, real estate assessors, court interpreters and other persons, including large numbers of clerks; it added some new positions and changed the titles of others; it provided for salary increases totalling more than half a million dollars, to be paid by

the city out of the proceeds of local taxation; and this it did without even pretending to consult the wishes of the local taxpayers who must inevitably pay the bill. A large number of other cities could cite equally flagrant instances of state interference, drawn from their daily experience. They must still submit, in the forceful words of one writer, "to the constant looting of their purses and restriction of their liberties by hinds who seldom think of them save to wish them evil."[9]

Prohibition of Special Legislation

Most American municipalities, however, are no longer completely under state domination. State constitutions have been amended—in some instances to grant to the cities a substantial measure of self-government, in other cases merely to prevent the grossest abuses of the legislature's power. State legislatures are no longer entirely free to regulate local matters as they may see fit. They must conform to constitutional requirements. One of the earliest limitations was the prohibition of "special legislation" concerning cities. It had long been the regular practice of state legislatures to deal separately with each municipality. When a law was passed concerning municipal affairs it would commonly refer to a single city by name, and its operation would be limited to that city. No two cities were treated alike. Powers granted to one were denied to another; the obligations imposed by state law were seldom the same. The ostensible advantage of this plan was that it made possible a consideration of special needs, and gave to each city what was best for it. Every city needed special treatment, it might well have been argued, because of variations in local conditions. The charter framed for one municipality would in all probability fail to meet the requirements of another. The theory was plausible enough, but it broke down in practice because it ignored the way in which special laws for cities were actually framed. The legislature was free to investigate the special needs of each

[9] Welsh, Orville A., "Government by Yokel," published in the *American Mercury*, October 1924.

municipality, but it never did. It was at liberty to base each special law upon local conditions, but actually it did nothing of the sort. Instead it passed laws concerning the affairs of Boston or Cincinnati or Detroit, as the case might be, because some interested group brought sufficient pressure to bear. The interested group might be the leading people of the city, intent only upon their community's welfare; or it might be a combination of promoters seeking special privileges at the city's expense. But scarcely ever did the legislature register a carefully considered opinion of its own with regard to municipal affairs. The time was too short and the capacity of its members too limited.

The constitution adopted by Ohio in 1851 contained a clause destined to have an important influence upon city-state relations. It was a limitation on legislative power, providing that "the general assembly shall pass no special act conferring corporate powers."[10] The men who framed this clause had no thought that they were giving any measure of protection to cities; they simply included municipal corporations because there seemed no good reason for leaving them out. Their real purpose was to prevent preferential treatment of private corporations. But the article as adopted applied to private and municipal corporations alike, and restricted the power of the legislature over cities as well as over private business. After it became a part of the constitution the legislature was no longer free to confer powers upon cities by special act.

Within the next two decades nine states followed Ohio's example and required their legislatures to deal with municipal affairs by means of general laws. Several of them copied practically verbatim the provision of the Ohio constitution; others varied the phraseology to a greater or less extent. "Corporations, other than banking, shall not be created by special act, but may be formed under general laws," declared the constitution of Indiana.[11] And the framers of the Illinois constitution, adopted in 1870, not only stipulated that "the general assembly shall provide,

[10] Art. XIII, Sec. 1.
[11] Art. XI, Sec. 13.

by general laws, for the organization of all corporations hereafter created,"[12] but went a step further and prohibited local or special laws "incorporating cities, towns, or villages, or changing or amending the charter of any town, city or village."[13] Provisions of a similar nature have now found their way into the constitutions of a great many states.[14]

These clauses vary widely from state to state in the degree of protection they furnish against state interference. In some states, for example, there is merely a stipulation that corporations shall not be *created* by special acts. This limitation, in the view of some state courts, applies only to the chartering of corporations, and has no reference to the manner in which they may be regulated. To put the matter in plain words, the legislature must incorporate cities under laws general in their application. But once the cities have been called into being the legislature is given a free hand. It may amend the charter of one city and not of another; it may confer additional powers on some cities and deprive other cities of the powers they already possess. And all its acts are quite within the letter of the constitution, because the cities have been created by general law. Some state courts, however, have interpreted the prohibition against the *creation* of corporations by special law as a denial of the legislature's right to pass *any law* dealing with corporate affairs (whether municipal or otherwise) except in general terms.

Many state constitutions prohibit the passage of special legislation "dealing with the affairs of cities," and in this way they make clear that more than incorporation is involved. In order to avoid hampering the legislature unduly, however, special laws are permitted in some states "where a general law cannot be made to apply," or words

[12] Art. XI, Sec. 1.

[13] Art. IV, Sec. 22.

[14] One of the best accounts of the history of the prohibition of special legislation for cities is found in Howard Lee McBain's *The Law and the Practice of Municipal Home Rule*, Chap. III. See also Wm. Anderson's "Special Legislation in Minnesota," 7 *Minn. Law Review* 135.

to that effect. An interesting question is immediately presented: who is to determine whether a general law can be made to apply under any given set of circumstances? If the legislature is made the judge, it will probably decide every doubtful point in its own favor, and the prohibition against special legislation will prove valueless. Yet if the courts are given authority to pass upon the matter a large amount of purposeless litigation is likely to result. There seems to be no good reason for making any exception to the rule that laws dealing with the affairs of cities must be of a general character.

Usually state legislatures have evidenced no intention of respecting the spirit of the constitutional prohibition against special laws. Often they have ignored the plain words of the constitution. The Ohio legislature, to take a single example, continued to regulate municipal affairs within the state in much the same manner after 1851 as it had done before.[15] It passed laws for Cleveland, for Cincinnati, for Columbus, mentioning these places by name. Each city continued to receive preferential treatment. But in 1870 the Ohio Supreme Court brought this practice to a sudden halt. An act extending the boundaries of Cincinnati was declared to be "clearly in contravention of the restrictive provisions of the constitution,"[16] as indeed it was. Thereupon the legislature adopted a device with which it had already experimented; it proceeded to classify the cities of the state. The cities were divided by law into several groups or classes on the basis of population, and the legislature then enacted laws applying only to the cities of each class. Other states where special legislation was prohibited soon followed suit. Now there is nothing inherently unfair or unreasonable about the principle of classification. It is merely a recognition of the obvious fact that cities differ in their needs, and that laws designed for

[15] For a period of five years following the adoption of the constitution of 1851 the legislature seemed to have every intention of respecting the constitutional limitation. But in 1856 its policy abruptly changed. See H. L. McBain, *op. cit.*, pp. 68-74.

[16] State *ex rel.* the Attorney General *v.* the City of Cincinnati, 20 Ohio St. 18.

one may meet but poorly the requirements of another. Why should all the municipalities of a state be compelled to have exactly the same form of government? Why should they all possess exactly the same powers? The large cities must of necessity have a complicated governmental framework which would be only a burden to smaller communities. New York City has problems of which Binghamton knows nothing. Detroit's needs differ radically from those of Battle Creek. The purpose of requiring general laws is achieved if all large cities, or all small cities, or all cities facing the same problems, are treated alike. Recognizing this fact, the courts in practically every state [17] upheld the principle of classification when it was presented for their consideration. "A statute which relates to persons or things as a class is a general law, while a statute which relates to particular persons or things of a class is special," declared a Pennsylvania court in a decision which has often been quoted with approval.[18]

Although classification of cities is sound in principle, it speedily degenerates into special legislation if carried to excess. And most state legislatures went as far as the courts would permit them. If they had the power to divide the cities of the state into two or three classes, they reasoned, why not divide them into twenty or thirty classes? Why not, in fact, divide them into as many classes as cities, placing one city in each class? If the constitutional requirement concerning cities could be met in this way, the legislators would still be free to deal with municipal problems as they saw fit. But the courts were usually unwilling to go so far as to approve an unlimited number of classes. Classification, they held, must be general in fact as well as in form. It must be for the purpose of meeting the needs of cities, and not merely to evade a constitutional prohibition.[19]

Thus the courts spoke. In practice, however, they permitted the most flagrant violations of the principle of gen-

[17] Ohio is the one exception.

[18] Wheeler *v.* Philadelphia, 77 Pa. St. 338.

[19] See the list of cases cited in Eugene McQuillin's *Municipal Corporations,* Vol. I, p. 466.

eral legislation. State legislatures proceeded to classify in such minute detail that so-called general enactments became in fact nothing but special laws. Population was made a common basis for classification, and in many a state every one of the largest cities was placed in a separate class. Now it is idle to say that a law applying to all cities of the first class is general when there is but a single city in the first class. Such sophistry may appeal to some minds, but its real effect is to nullify the constitutional prohibition against special laws. Sometimes the legislatures went so far with their classifications that the courts had no recourse but to call a halt. In Pennsylvania a statute was made applicable to "all counties of this Commonwealth where there is a population of more than sixty thousand inhabitants, and in which there shall be any city incorporated at the time of the passage of this act with a population exceeding eight thousand inhabitants, at a distance from the county seat of more than twenty-seven miles by the usually traveled public road." The legislature was reasonably safe in assuming that only one county could qualify. "This is classification run mad," said the court.[20] And indeed it was.

Classification Must Be Reasonable

The state courts have consistently ruled that classification must be reasonable and rational—in other words, that the basis of classification must bear some relation to the purpose of the law. A law classifying cities on the basis of their school enrolment would be constitutional if its object were to provide for the construction of new schools, but unconstitutional if its purpose were to specify the manner of electing the mayor. There would seem to be a clear relationship between school enrolment and school construction, but little connection between school enrolment and the manner of choosing the executive. What, then, of classification based on proximity to the sea? Such a classification was upheld in one New Jersey case because the law dealt with driveways upon the beach, and rejected

[20] Commonwealth *ex rel.* Fertig *et al. v.* Patton *et al.*, 88 Pa. St. 258.

by the same court in another case because the statute concerned the method of levying taxes. The court was willing to admit that a shore resort and an inland town might well require different treatment when beach driveways were under consideration, but it could find no connection between proximity to the ocean and the manner of raising taxes.[21] Population is generally considered a proper basis of classification, but there are times when it will be rejected by the courts. A law authorizing cities within certain population limits to lease their wharves, for example, was declared unconstitutional because there seemed to be no relation between the number of people in a city and its right to lease its wharves.[22]

Despite occasional adverse court decisions, however, many state legislatures have succeeded in virtually nullifying the constitutional requirement of general legislation by the simple expedient of creating a sufficient number of classes of cities. What is perhaps the most flagrant example of "classification run mad" is the California law dividing the counties of the state into fifty-eight classes. California has just fifty-eight counties, and each county enjoys the distinction of being the only county in its class.

In most states the legislature is now prohibited by the constitution or by court decisions from dividing the cities into a great number of classes. Three or four classes is usually fixed as the maximum. As a result each of the largest cities is placed in a class by itself, or possibly in a class where it has but one or two others for company, and all the smaller municipalities are thrown into the lowest group. Only two states, Illinois and Ohio, have ever seriously attempted to treat all their cities alike, and even they have not been entirely consistent. In Illinois special legislation for Chicago is permitted under certain conditions,[23] and the Ohio cities, now under a system of home rule, received absolute equality of treatment from the legislature for a period of but ten years.

[21] State *v.* Wright, 54 N. J. L. 130; Alsbath *v.* Philbrick, 50 N. J. L. 581.

[22] Oliver *v.* Burlington, 75 N. J. L. 227.

[23] See p. 106.

Although classification has been by far the most common way of evading the constitutional requirement that laws dealing with municipal affairs must be in general terms, other subterfuges have also been tried with considerable success. It is a common practice for state legislatures to pass laws phrased in general terms which have no general application because of their subject matter. A statute fixing the salaries of all municipal bandmasters at four thousand dollars, for example, is certainly general in form, but its application will be quite limited if only one city in the state has a municipal band. Legislatures often enact optional laws which may be accepted by any city, but which, it is generally understood, will be accepted only by one.

Occasionally when a legislature wishes to deal with the affairs of a single city it creates an independent board, commission or taxing district, having approximately the same boundaries as the city and with power over matters commonly left in the hands of city officials. If these commissions are multiplied sufficiently the city is robbed of a large portion of its authority. Chicago, for example, has a forest preserve board, a board of trustees of the sanitary district, a school board, a library board, a board of county commissioners and numerous park commissions. With all these bodies the city council is compelled to share its power. In this respect Chicago is only slightly worse off than a large number of American cities. The most significant fact about these specially created boards and commissions is that the state legislature is free to pass any number of special laws concerning them. Cities must be dealt with under general laws, but library boards, police boards, park commissions receive no such constitutional protection. They may be made the subject of any number of special enactments, and usually they are. A number of states have amended their constitutions to prohibit the creation of state-appointed commissions dealing with municipal affairs.

It is clear that constitutional prohibitions against special legislation for cities have not been entirely satisfactory. They have proved easy to evade, and most state legislatures have consistently evaded them. Moreover, they provide

no guarantee of local self-government. The only protection they offer any municipality is the protection against inequality of treatment. The legislature may still saddle unreasonable burdens upon any city; it may still pass laws obnoxious to any city. But it must treat all cities, or all cities of the same class, alike. If it places unreasonable burdens upon one it must place those burdens upon all. If it drains one municipal treasury it must drain the others. No city is freed from legislative interference by the requirement that laws must be general, but every city is given the cold comfort of knowing that it fares no worse than its neighbors.

There can be no doubt, however, that the requirement of general legislation has served a useful purpose. It has furnished a real measure of protection to hundreds of small communities. It has saved them from the worst evils of legislative domination. For in most states they have been grouped together in a single class, and thereby assured at least some small measure of local independence. State legislatures, faced with the necessity of framing laws for a dozen or twenty cities of varying sizes and different problems, have been obliged to omit many details, and have permitted city councils to pass upon matters formerly decided at state capitals. It is virtually impossible for a legislature to stipulate the exact number of municipal departments and the number of employees in each department, for example, if the law must apply alike to cities of three thousand population and cities of thirty thousand.

Not only have the small cities acquired a certain amount of control over the details of local administration; they have also achieved more stable government. Instead of awaiting each new session of the legislature with dread, wondering what new changes will be made in their charters and what new obligations will be imposed upon them, they may be fairly certain that innovations will not be numerous. When dealing with the smaller municipalities state legislatures find themselves handicapped in their attempts to load city payrolls with political employees and to grant local franchises contrary to the public interest. In order to

injure one city they must injure a dozen others, and this they are unwilling to do. Sometimes they dare not. So instead they turn to the larger cities—each in its own class, in all probability—for which they may legislate virtually as they please. And as a result the cities of the lowest class continue year after year with charters but little changed, protected in part against the worst abuses of the legislature's power. For the metropolis, of course, the requirement of general legislation has proved practically meaningless, and even the smaller cities have found it only a half-way measure. But partial protection is better than no protection at all.

Home Rule

In 1875 the people of Missouri adopted a new constitution. That constitution contained a provision destined to have a profound effect upon the course of municipal government in the United States. "Any city having a population of more than one hundred thousand inhabitants," it read, "may frame a charter for its own government." At the time St. Louis was the only city with a population of one hundred thousand, and its people at once set about framing their own charter. They were required to follow the procedure set forth at length in the constitution. First they had to select a charter commission, composed of thirteen freeholders. The charter framed by this commission was then to be submitted to the voters, and if approved by them at the polls was to go into effect sixty days later. Within a year the charter was framed, and it was promptly ratified at the polls. As early as 1876, therefore, the city of St. Louis was governed under a charter of its own making.

The constitution did not give the charter commission entire freedom of action. It stipulated that any charter offered for popular approval must provide, among other things, for "a chief executive and two houses of legislation, one of which shall be elected by general ticket," and that it must be "in harmony with and subject to the Constitution and laws of Missouri." Obviously there was no

intention to transform St. Louis into a virtually independent "free" city, like the free cities of the Middle Ages. On the contrary, the framers of the state constitution took considerable care to emphasize state supremacy. After granting to St. Louis the right to frame its own charter they added two very significant clauses. One of these read: "Such charter and amendments shall always be in harmony with and subject to the Constitution and laws of Missouri." The other was even more emphatic. "Notwithstanding the provisions of this article, the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties of this State."

Here were boundless possibilities for disputes and law suits—possibilities that have since been realized to the fullest extent. The people of St. Louis were to have the right of framing their own charter and amending it as they saw fit, but the charter must be "in harmony with and subject to the . . . laws of Missouri." What would happen, then, if they provided in their charter for a mayor with a four-year term, and the state legislature later fixed a two-year term for all Missouri mayors? What would be the result if the charter set up a debt limit higher than the limit established by the legislature for Missouri cities? Apparently the charter must give way in every case, for it must always be subject to the laws of the state. Not only that, but "the General Assembly shall have the same power over the city and county of St. Louis that it has over the other cities and counties of this State." The power of the legislature over the other cities and counties was virtually unrestricted. Was its power over St. Louis also practically unlimited? The constitution said it was, and said so in very plain language.

It would seem from the words of the constitution that the gift of home rule to St. Louis was an Indian gift. Power was granted with one hand and taken away with the other. The city might provide for its own government with the understanding that the legislature could at any time change any provision of its charter. Out of this maze

of hopeless contradictions the Missouri courts have salvaged some small measure of home rule. Their decisions have been none too clear; sometimes they have been conflicting. But the net result has been to give the city control over matters of purely local concern, leaving the state legislature still supreme with regard to matters of general interest. According to the courts, the constitution really means that city charters[24] shall be "in harmony with and subject to" those state laws *dealing with state-wide affairs,* and that "the General Assembly shall have the same power over the city and county of St. Louis that it has over other cities and counties," *except with regard to local matters.*[25] The constitution itself, of course, makes no distinction between affairs of general concern and those of local interest. The rulings of the Missouri courts may be difficult to justify from a legalistic viewpoint, but they have given to St. Louis, and more recently to Kansas City, a measure of home rule which must otherwise have been denied to them.

In 1879 California followed the example of Missouri and gave home rule powers to San Francisco. Eight years later all cities with populations of more than ten thousand were included. The California grant was copied practically verbatim from Missouri's constitution, with the same unfortunate results. Home rule proved a meaningless term in practice, because the California courts interpreted the constitution literally. *All* charter provisions were declared subject to state law, and therefore at the mercy of the legislature. So the only thing to do was to amend the constitution. As amended the constitution gave the cities of the state the right to frame and alter their own charters, and added the proviso: "All charters framed or adopted by virtue of this constitution, *except in municipal affairs,* shall be subject to and controlled by general laws." The people of California thus wrote into their

[24] Kansas City has since come under the operation of the home rule amendment.

[25] See the long list of cases given in H. L. McBain's *The Law and the Practice of Municipal Home Rule,* pp. 118-99. Professor McBain's volume is the standard work on the subject of municipal home rule.

constitution in plain English what the courts of Missouri inserted in the constitution of that state by means of judicial decisions.

Other states followed in time. Washington's first constitution (1889) contained a grant of municipal home rule powers, and seven years later a constitutional amendment gave the right of self-government to Minnesota cities. Since then the movement has spread gradually. In the West it has made the greatest progress. Fifteen states in all have adopted the plan, and only two of the fifteen lie east of the Alleghenies.[26] The amount of genuine home rule obtained by cities under these constitutional amendments varies widely from state to state. In some states the grant of power is broadly interpreted, and the cities actually possess a considerable measure of local autonomy. In others the legislatures and the courts seem to have conspired to prevent any real municipal self-government. The cities of California, for example, are home rule cities in fact as well as in name, while Texas cities still lack some of the powers of self-government contemplated by the state constitution.

The exact meaning of home rule ought to be made clear at this point. It does not imply entire freedom from state influence. It does not signify that the people of a municipality may control their government completely, as may the people of a state or of a nation. It simply means that state supremacy will be exercised only with regard to matters of state-wide concern, and that in local affairs authority will rest with each community. Every constitutional amendment granting home rule powers to cities contains some saving clause, some words to insure the continued dominance of the state legislature in matters of state interest. In Michigan the charters of home rule cities must

[26] This number includes Maryland, which has county self-government placing Baltimore among the home rule cities. The other Eastern state is New York (1923). Pennsylvania is sometimes included in the list because its constitution was so amended in 1922 as to authorize the legislature to grant home rule powers to the cities of the state should it so desire. As yet it has not so desired, and therefore Pennsylvania is not numbered among the fifteen.

be "subject to the Constitution and general laws" of the state.[27] The charters and ordinances of Ohio cities must not be "in conflict with general laws."[28] In New York "every city shall have power to adopt and amend local laws not inconsistent with the Constitution and laws of the State."[29]

Municipal home rule is commonly defined as the power of a city to regulate its own affairs, and that is probably as good a definition as any. And yet it sidesteps the main issue: What are a city's own affairs? What matters are purely local; what matters are of state-wide concern? Are there, in fact, any affairs worth mentioning which do not affect the people of an entire state—or at least the people of several communities—to a greater or less extent? The public health activities of every municipality are of profound interest to its neighbors, for if one community fails to enforce its quarantine regulations the resulting epidemics will show scant respect for city boundaries. The sewage disposal methods of every city are a matter of more than local concern, for though the easiest and quickest way to get rid of sewage may be to dump it into a nearby river, that method may not appeal to cities down stream which depend on the river for their drinking water. Educational facilities and standards are, at least in part, a matter of state interest, for the state owes to all its citizens a minimum of educational opportunity. And so it is with police administration, poor relief, finance, utility regulation, elections. It is difficult to select a single function of city government and argue convincingly that it is purely an affair of local concern. The real test is not whether the state or the city has an interest in the matter, for usually they both have; but whether the state's interest or that of the city is paramount. Virtually every function of city government has more than local significance; only a few, however, are of such concern to the state that state interference is justified.

[27] Constitution of Michigan, Art. VIII.
[28] Constitution of Ohio, Art. XVIII.
[29] Constitution of New York, Art. XII.

It is easy enough to say that some functions are *primarily* of local interest, while others are *chiefly* of general concern. But it is extremely difficult to draw a satisfactory dividing line. State constitutional conventions have not attempted the task. They have contented themselves by prohibiting legislative interference with "municipal affairs" or "the property, affairs or government of cities," leaving it to the courts to interpret these clauses. Even the courts of the home rule states are not in accord as to the exact nature of municipal affairs. Matters looked upon as local in one state are classed as general in another. The courts are fairly well agreed that municipal elections are a local affair, and that utility regulation is not; but with regard to many functions of government they are hopelessly divided.

Most constitutional amendments granting home rule to cities are self-executing—that is, they go into effect automatically, without need of further action by the legislature, the courts or any other body. The constitution of Oregon provides, for example, that "the legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitution and criminal laws of the State."[30] Here is a definite guarantee of local self-government, in no way dependent upon the approval of state authorities.

In a few states, however, the constitution merely establishes the principle of city home rule, leaving it to the legislature to provide by statute what powers shall be exercised by cities and how they shall be exercised. Thus the constitution of Michigan reads: "The legislature shall provide by a general law for the incorporation of cities, and by a general law for the incorporation of villages. . . . Under such general laws the electors of each city and village shall have power and authority to frame, adopt and amend its charter. . . ."[31] Every Michigan city, therefore, has the right to frame its own charter, *but only in such manner and at such time as may be prescribed by the legislature.* Should the legislature fail to enact the necessary laws,

[30] Art. XI, Sec. 2.
[31] Art. VIII.

home rule would be a dead letter. The first state to adopt this plan of home rule was Minnesota, in 1896. According to its constitution, "the legislature shall provide, under such restrictions as it deems proper, for a board of fifteen freeholders" in each city to draft a charter for submission to the city's voters.[32] But suppose the legislature disregards the plain letter of the constitution, and makes no provisions? What can be done about the matter? The answer, of course, is that nothing can be done. Everything rests with the legislature.

At first glance it might seem absurd to grant home rule powers to cities, and then to make the exercise of these powers dependent on legislative action. Home rule is designed to free the cities from the domination of the legislature; why give the legislature a voice in the matter? Why give a possibly hostile assembly the chance to defeat a promising reform? The best answer to those critics who insist that no legislative body will pass a law limiting its own authority is the plain fact that state legislatures have done so. In virtually every home rule state, unless the constitutional provision was self-executing, the legislature has faithfully performed its duty by passing an enabling act conferring broad powers of municipal self-government. Pennsylvania is the only exception.[33] When the principle of home rule has been written into the constitution and definitely established as the policy of the state, the legislature will generally do its share. Should its members be hostile to home rule, however, they can usually manage to retain the lion's share of power in their own hands, regardless of the letter of the constitution. The provisions of the Missouri constitution, for example, are self-executing. They require no action by the legislature to set them in motion. Yet the Missouri General Assembly, through its control over matters of state concern, has succeeded in regulating many of the affairs of St. Louis and Kansas City.

There is much to be said in favor of granting municipal home rule by means of a constitutional amendment and a

[32] Art. IV, Sec. 36.
[33] See footnote on p. 92.

subsequent enabling act. The act may properly include a vast number of details that have no place in a state constitution. It may enumerate specifically and at length the powers of cities, thus making it unnecessary to call upon the courts for a definition of "municipal affairs." Anything forgotten may readily be added later. Changes in the law may be made in order to meet changing conditions, without the necessity of resorting to the cumbersome process of amending the constitution. In a word, the enabling act gives flexibility to the scheme. And if a hostile legislature finds it easy to evade the letter and ignore the spirit of the constitution, it could do the same with but little greater difficulty under any form of home rule.

New York, which joined the ranks of the home rule states in 1923, has adopted a plan that should prove very effective. Instead of merely conferring upon cities the somewhat vague right to regulate their own affairs, thus forcing the courts to determine the exact meaning of "municipal affairs," the constitution lists a considerable number of matters regarded as essentially local, and therefore placed under local control.[34] This enumeration of municipal powers makes no pretense at completeness, however. Its only purpose is to prevent some of the lawsuits that follow the adoption of every home rule amendment. "The Legislature may . . . confer on cities such further powers of local legislation and administration as it may, from time to time, deem expedient."[35]

The procedure by which a city may frame and adopt its

[34] "Every city shall have the power to adopt and amend local laws not inconsistent with the Constitution and laws of the State, relating to the powers, duties, qualifications, number, mode of selection and removal, terms of office and compensation of all officers and employees of the city, the transaction of its business, the incurring of its obligations, the presentation, ascertainment and discharge of claims against it, the acquisition, care, management and use of its streets and property, the wages or salaries, the hours of work or labor, and the protection, welfare and safety of persons employed by any contractor or subcontractor performing work, labor or services for it, and the government and regulation of the conduct of its inhabitants and the protection of their property, safety and health." —Art. XII, Sec. 3.

[35] Art. XII, Sec. 5.

own charter varies but little from state to state. The first step is the creation of a charter commission, whose duty is to draft a charter and submit it to the voters for their approval. The members of this commission, ranging in number from nine to twenty-one, are usually elected by the people of the city, though in Minnesota they are appointed by the district court. The charter framed by them goes directly to the voters, a special election being called in most states. Generally speaking, a majority vote is sufficient for adoption. In Minnesota, however, a four-sevenths affirmative vote is required by the constitution. There seems to be no good reason for this departure from the usual custom of majority rule. Subject to popular assent, a few states permit city councils to frame new charters.

Approval by the voters is usually the final stage, but four state constitutions require subsequent action by state authorities—by the legislature in California, and by the governor in Arizona, Oklahoma and Michigan. In all four states the approval of the central authority, whether legislature or governor, is given almost as a matter of course to home rule charters. Amendments to charters are usually proposed by city councils or directly by the people through initiative petitions.

SELECTED REFERENCES

See references at end of Chapter V.

CHAPTER V

CITY-STATE RELATIONS (*continued*)

In the preceding chapter municipal home rule was discussed as if it were invariably a grant of power made to cities by the state constitution. As a matter of fact, home rule powers are sometimes conferred upon cities by state legislatures, without regard to constitutional provisions. As early as 1858 the legislature of Iowa authorized the cities of the state to amend their own charters. Other states followed Iowa's example, and today there are at least six states with more or less satisfactory statutory provisions for municipal home rule.

The number would be still larger in all probability but for the attitude of the courts. Some state courts have declared laws unconstitutional which gave to city voters the right to control their own local government. Other state courts would probably do the same if asked to pass upon the matter. This is because virtually all state constitutions declare, in language which varies but little from state to state, that "the legislative power shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives." Since the power to make laws is vested in the legislature, it cannot be delegated to other agencies. It cannot be given to the governor of the state, to city councils, or to the people directly. Now city charters are state law; they are usually passed by the legislature like any other law; and in their own sphere they are as binding as any law can be. Whenever a city charter is put into effect a new law comes into being; whenever a charter is amended an old law is changed. In the opinion of some courts, therefore, the legislature is abandoning its right to legislate when it authorizes the people of a city to frame, adopt and amend their own charter. This view was taken

by the courts of Michigan and Wisconsin,[1] and constitutional amendments were therefore necessary to give the people of those states home rule.

In some other states, however, the courts have taken a more liberal attitude. Iowa and Mississippi laws providing for the local adoption or amendment of charters without reference to the legislature have been upheld.[2] The fate of home rule by mere legislative grant is therefore uncertain in any state unless the courts of that state have spoken on the subject. There have been only a few adverse decisions, but the uncertainty has been sufficient to keep many state legislatures from acting. A New York statute of 1913 giving some powers of local self-government to the cities of the state was never put into effect because of doubt as to its constitutionality. Once the people of a state have decided upon a policy of municipal home rule they usually amend their constitution. That method is undoubtedly safer.

The Arguments for Home Rule

The advocates of home rule advance a great many arguments in its favor. It is, they say, but simple justice that the people of each city be given the right to regulate their own affairs. The people of the state would not tolerate outside interference; the people of the nation would not passively accept the domination of a foreign power. Why, then, must that portion of the people who chance to live in urban communities be denied the right of self-government, which Americans have long been taught to regard as their most precious possession? Why must urban folk suffer from the vagaries of the state legislature? Unless sound reasons can be advanced for keeping the cities in legislative apron-strings it would seem that the strings should be cut as speedily as possible.

Some critics maintain that self-determination for local communities, while "sound enough, no doubt," cannot be

[1] Elliott *v.* City of Detroit, 121 Mich. 611; State *ex rel.* Mueller *v.* Thompson, 149 Wis. 488.

[2] Von Phul *v.* Hammer, 29 Ia. 222; Yazoo City *v.* Lightcap, 82 Miss. 148.

insisted upon as a matter of principle. "If cities and towns are entitled to complete self-determination," asks Professor Munro, "why not also the wards of the city? Why not the precincts within the wards? Is a city of ten thousand entitled to home rule, while a city ward of fifty thousand people is denied the same right?"[3] This is mere sophistry. By applying the same logic it would be possible to deny the right of self-government to any state, to any nation, or to any area short of the entire world. The real reason for granting home rule to cities is that cities are economic units whose people have much in common—so much that they have a common right to settle their own affairs among themselves. The residents of the fifth ward and those of the thirty-fifth ward may have many differences, but economic and social interests bind them to each other far more closely than to the people of the rural districts. Nor need we be disturbed because a city of ten thousand has home rule, while a city ward of fifty thousand has not. Size has nothing to do with the matter, whether municipalities or nations are under consideration. Has it been seriously contended that Switzerland should be deprived of its independence because any one of eight American states has a larger population? Switzerland, it will be said, has a consciousness of its unity. It has a multitude of problems and interests which it does not and cannot share with other nations. But so have most American cities. Ask the people of New York City whether their interests are different from the interests of up-state New York. Ask the residents of Chicago whether their city's needs are synonymous with the needs of rural Illinois. Cities are separate economic units, and they should be treated as such.

This argument does not satisfy the critics of home rule, however. They contend that cities are artificial areas, artificially created, no less than the wards into which they are divided. "New York City's present boundaries owe their origin to a legislative enactment, to a stroke of the legislative pen," points out Professor Munro. "Within fifteen miles of the Massachusetts State House there are

[3] *Municipal Government and Administration*, Vol. I, p. 189.

some thirty cities and towns, all contiguous, a jumble of communities great and small. No one but an expert in local topography can tell where one ends and the other begins."[4] Such instances could be multiplied almost indefinitely. But they must not be allowed to conceal the essential fact that the city, however roughly its political boundaries may correspond to its economic limits, is more nearly a "natural" area than any other unit in our governmental system. In many states a majority of the counties have been marked off by the simple process of drawing lines at right angles across the map of the state. Some county boundaries have even been determined with reference to their effect on party strength. The states themselves are for the most part artificial creations. Nearly all owe their existence to "a stroke of the legislative pen." Most of them are separated from one another by parallels of latitude and longitude, and these imaginary lines have little relation to natural differences. With cities, however, it is different. Every law incorporating a city, every statute fixing municipal boundaries, is a recognition of existing fact. The recognition may be belated; the facts may change while the law remains unaltered. But it is none the less true that virtually every city is *or has been* a separate economic unit, with its own problems, its own desires, its own needs.

These needs, it is said by the friends of home rule, are better understood by the people of the city than by any farm-controlled legislature. These problems, it is contended, can better be solved at home than at the state capital. There is a large measure of truth in this argument. All too often state legislatures have proved indifferent or even hostile to the wishes of city folk. They have passed laws without sufficient regard for local conditions. The state laws of Ohio relating to municipal finances, for example, are so stringent that city officials find it practically impossible to keep their budgets balanced. In Connecticut the state legislature, dominated by rural members, prohibited the display in public of daylight saving time under

[4] *Municipal Government and Administration*, Vol. I, p. 189.

penalty of fine and imprisonment. Such laws serve to emphasize the need for local control of local affairs.

An advantage of home rule not to be overlooked is that it relieves state legislatures of an unnecessarily heavy burden. In every state the legislature is called upon each session to consider a vast quantity of bills—a thousand, fifteen hundred or even more. Only a small portion of these proposals ever get to the floor of the legislature. And of those that reach this stage, very few receive adequate attention. State legislatures are overworked. Now a surprisingly large amount of legislative time is occupied in regulating the affairs of cities. Bills are introduced, discussed and passed concerning the structure of city government, the terms and salaries of city officials, the method of awarding contracts, and a hundred other subjects which ought to be determined by the cities themselves. The adoption of home rule takes these matters out of the hands of the legislature and leaves it free to devote its entire time to affairs of state-wide concern.

Another argument frequently advanced in favor of municipal home rule is that it stimulates civic pride. People will take a greater interest in their government, it is said, if they have a hand in framing it. This advantage is undoubtedly real, but it must not be exaggerated. The man on the street, the average citizen who represents about ninety-five per cent of the voters, is seldom vitally interested in municipal affairs—even in the framing of a new charter. In the autumn of 1926, for example, the city of Rochester, N. Y., adopted a new charter framed by the leaders of the community. There was an unusually intense campaign, marked by strenuous efforts to get out the vote, with the result that about one-third of the eligible voters actually went to the poles and expressed a preference concerning the charter. In many instances the preference expressed was doubtless that of the political organization, and not their own. Thirty per cent of those who voted for the mayor and other candidates did not even trouble to mark that portion of the ballot dealing with charter adoption. So the number of persons who really cared what

happened to the charter was small indeed. Rochester's experience was not unique; it was typical. Most people will not bother their heads about such an abstract thing as a city charter, whether it be framed at home or abroad. They are not interested, and no way has yet been found to interest them. In every community, however, is a group of potential civic leaders—outstanding business men, prominent club women, distinguished professional persons, zealous social workers. Their interest in good government is often dormant, but it can readily be aroused. They will give freely of their time and energy if convinced that they are performing a real service. To such persons home rule makes a vital appeal. They will lead the fight for charter ratification and the fight for good government after the charter has gone into effect. Without local self-government, however, their services would be lost to the community in large measure. They could not be expected to maintain a lobby at the state capital. The statement that self-government stimulates local interest ought, therefore, to be carefully qualified. It stimulates the interest of some persons, and frequently they are the very persons whose interest is most needed.

The Arguments Against Home Rule

The objection most commonly raised to home rule is that its scope is necessarily so limited as to make it scarcely worth while. "Are there any functions of government in which the interest of the state is not vital, perhaps even paramount?" ask some students of municipal affairs. They point out that health, education, justice, sanitation, poor relief, public transportation—in fact, virtually every activity of city government is a matter of more than purely local concern. Neighboring communities are also affected to a greater or less extent, and at times the people of the entire state may be involved. No community liveth to itself, and any theory of government that treats each town and city as an independent unit, ignoring the paramount interest of the state, is based on faulty logic. So runs the argument. "We are willing to admit," say those who follow this line

of reasoning, "that the people of each city should determine their purely local affairs—if you can find any affairs that are purely local. Perhaps they should be permitted to determine the structure of their government. Possibly they should fix the qualifications of municipal officials. But after all the complete list of purely local matters is so restricted as to rob the home rule principle of most of its significance."

There is just enough truth in this contention to make it a dangerous misrepresentation. When the welfare of the entire state is at stake, or when a number of communities are vitally concerned, the principle of home rule must give way. To that everyone will agree. Municipal home rule is by definition the power of a city to regulate its own affairs—not to solve the problems of the commonwealth. But there are many matters in which the state has no vital interest, and which can be handled much more satisfactorily at home than at the state capital. The list is far larger than the opponents of home rule are willing to concede. It includes not only the structure of city government and the terms, qualifications and salaries of city officials, but also recreation, fire protection, water supply, ownership and operation of utilities, zoning, housing and many another matter. Even with regard to health, education and other functions admittedly of state-wide concern there is still considerable room for local activity. State authorities fix minimum educational requirements; but city officials are usually at liberty to exceed these minimum requirements as far as they desire. State legislatures pass laws intended to safeguard the public health; but city councils and city health officers may supplement these statutes with necessary local regulations. The chart on the opposite page is suggestive of the proper distribution of municipal functions.

The other argument most commonly advanced against home rule is that it takes from the people of the cities a much needed measure of protection against the folly or even downright dishonesty of their local officials. City mayors and city councilmen are only human, and sometimes they make serious mistakes. Occasionally they sacri-

DISTRIBUTION OF THE FUNCTIONS OF CITY GOVERNMENT

Local interest paramount	*State interest paramount*	*Concurrent jurisdiction necessary*	*Controversial subjects*
1. Structure of city government	1. Municipal debt limits	1. Police power †	1. Organization and jurisdiction of local courts
2. Salaries of city officials	2. Taxation for state purposes	2. Health	2. Eminent domain ‡
3. Terms of city officials	3. Regulation of prosecutions for violation of state constitution and laws	3. Education	3. Settlement of claims against the city
4. Qualifications of city officials	4. Organization and jurisdiction of higher courts	4. Poor relief	4. Taxation for local purposes
5. Methods of awarding contracts	5. Annexation of territory	5. Sanitation	
6. Ordinance procedure	6. Regulation of privately owned utilities	6. Correction	
7. Regulation of prosecutions for violations of charter and ordinances	7. Consolidation of city with other local units of government } Possibly concurrent jurisdiction necessary	7. City and regional planning	
8. Street cleaning	8. Elections } Possibly concurrent jurisdiction necessary	8. Construction and maintenance of through streets	
9. Street lighting			
10. Fire protection			
11. Recreation			
12. Water supply			
13. Ownership and operation of utilities			
14. Zoning *			
15. Housing			
16. Construction and maintenance of local streets			

* Zoning: The division of a city into districts or zones for the purpose of applying different regulations to the property within each district.

† Police power: The power to make reasonable regulations for the health, safety, morals and general welfare of the people.

‡ Eminent domain: The power to take private property, by paying just compensation, for a public or quasi-public purpose.

fice the public interest for their private gain, granting valuable franchises without securing for the people anything in return, or awarding contracts at high figures to favored bidders.[5] When matters get too bad, contend the opponents of home rule, the good citizens usually turn to the state legislature for relief. But if the legislature has been bound hand and foot because of some abstract theory, the good citizens must look for relief in vain. Errors must stand uncorrected and dishonest practices must continue unchecked—at least until the next election.

To this line of reasoning reply may well be made that inefficiency and corruption are not monopolized by city officials. State legislatures have sometimes been known to make mistakes, and even to violate their trust. While there have been many instances in which state intervention has served to prevent unwise local activities and to check fraudulent local practices, the number of cases has been at least as large in which state interference has resulted only in the forced adoption of unsound and unpopular policies. Sometimes a state legislature prevents a city council from bartering away the city's rights; sometimes it barters away those rights itself, over the protest of every decent element in the community. It is doubtless true that in the long run city officials are as capable and as virtuous as the members of state legislatures. Were it not so the future of local self-government would be dark indeed.

The Illinois and New York Plans

A number of states, though unwilling to adopt the principle of home rule, have adopted other plans designed to give the people of the cities at least a small measure of control over their own affairs. In Illinois, for example, special laws applicable only to Chicago may be enacted by the state legislature, but they do not go into effect unless approved at the polls by the voters of the city. The people thus have an absolute veto over all proposed special legis-

[5] Most city charters provide that every contract shall be awarded to the lowest responsible bidder, but there are at least half a dozen ways in which this requirement may be evaded.

lation. When this scheme was adopted in 1904 it was hailed by many as Chicago's *Magna Charta*, but actually it has accomplished little. The legislature has generally been unwilling to enact laws desired by the voters of the metropolis, and the voters in their turn have usually refused to approve the proposals submitted to them by the legislature. The result has been a deadlock.

A somewhat similar plan was adopted by New York in 1894, nearly twenty years prior to the adoption of the home rule amendment. New York's scheme differed from that of Illinois, however, in a number of important respects. It provided, for example, that every local bill proposed by the legislature should go, not to the people, but to the officials of the city affected—to the mayor and council, or, in the case of the three largest cities, to the mayor alone. The action of the local authorities was not to be final, however. Should they reject a proposal it might still be enacted into law over their veto by a simple majority vote of the legislature. But the members of the legislature would at least know local sentiment, as expressed by local officials, even if they chose to disregard it. The obvious purpose of the plan was to give the people of each municipality an opportunity to declare their preferences without in any way limiting the supreme authority of the state. During the thirty years of its operation it gave reasonable satisfaction. Most of the bills vetoed by city authorities never became law. The legislature seldom abused its power to override local sentiment. By no stretch of the imagination, however, could the scheme be called home rule. It gave to the cities an uncertain veto over legislative proposals, but no power to put forward suggestions of their own. In the matter of reform they could never take the first step. The adoption of a home rule amendment in 1923 was eagerly welcomed, therefore, by the city folk of New York State.

The Optional Charter Plan

Five states have adopted the so-called "optional charter" plan. Under this arrangement the legislature offers to the

voters of each city a number of different charters, and permits them to take their choice. Each charter provides a different structure of government—a strong mayor and a small, weak council, a weak mayor and a large, powerful council, or perhaps a commission exercising all local authority; but in every instance the powers conferred upon the city are about the same. At best such a scheme is a poor substitute for home rule, though it has been hailed by some enthusiasts as "just as good." The people determine whether their chief executive shall be a mayor, a city manager, or a commission; but at that point self-determination ends. The scope of municipal powers, the manner in which those powers are to be exercised, the terms, salaries and qualifications of municipal officials—all these things are fixed as before by the state legislature.

Even the most ardent advocates of home rule willingly concede that a considerable measure of state control is necessary with regard to matters of general concern—finance, health, education, sanitation, and a great number of other functions. Now the state may exercise its control in one of two ways. It may say, for example, with regard to municipal borrowing, that no city shall borrow more than a fixed amount, or more than a certain percentage of the assessed value of its property. This method is generally called *legislative* control, because each city's debt limit is fixed by the legislature, and in order to change the debt limit it is necessary to change the law. On the other hand, the state may have no fixed limitation on municipal borrowing, but may require every proposed new issue of city bonds to meet the approval of a state tax commission or similar agency. This method is commonly known as *administrative* control, since each city's needs are considered separately by an administrative body.

In the United States, as has already been pointed out, legislative control is the rule. The state legislature passes laws concerning every phase of city activity, and from the rigor of these laws there is no escape except by the process of repeal. Conditions may change and needs vary, but the

law is apt to remain the same. Unusual circumstances may make it desirable to exempt one or more cities from some arbitrary requirement, but the law admits of no exceptions. It insists upon equality of treatment, even though equality of treatment for cities with different problems and different needs may be in reality the grossest form of discrimination.

Administrative Control

The European practice contrasts sharply with the American procedure. The countries of Continental Europe grant broad powers to their cities, usually authorizing municipal councils to make any regulations consistent with national laws. This does not mean, however, that the cities of Europe have been given home rule, or that they are largely free of state control. Far from it. They are rarely under the necessity of going to the legislature, but at every turn they must secure the consent of state officials appointed by the central administration. Grants of power to the English boroughs are less generous, but England also has a system of administrative control.[6] If an English borough wishes to secure additional power to cope with health problems, for example, it puts the matter up to the Ministry of Health, a department of the national government.[7] If a French city desires to float a new loan it secures the approval of the *prefect* of the department, an officer appointed by the national authorities. In Germany the procedure is much the same. Municipal powers are not rigidly fixed by law, but everything must be approved by trained administrators representing the central government.

The obvious advantage of administrative control is its flexibility. It permits careful examination of the needs of

[6] Central control of the English borough is legislative in form, because Parliament must approve the acts of the central administrative authorities. In actual practice, however, control vests with the administrative officials, because Parliament usually gives its consent as a matter of course.

[7] The borough may go directly to Parliament, but in that event Parliament will be governed largely by the opinion of the Ministry of Health.

each city by men trained for the task. It allows variations to fit local conditions. It supplies the personal touch so often lacking in city-state relations. Like every plan, however, its success depends upon the calibre of the persons who carry it out. If they are chosen on the basis of experience and proved ability their control over city affairs ought to raise local standards and improve local practices. If, however, they are selected for political reasons they may do far more harm than good. One man vested with broad authority may be far more arbitrary than any legislature or parliament. The system of administrative control proves so effective in Europe because it is carried out by experts—men who prepare for government service and make it their life work.

In the United States administrative control is not unknown, though it has made no great headway. Public utilities are generally regulated by a state commission, even if their activities are confined to a single community. The police departments of several large American cities are directly controlled by state boards.[8] State civil service commissions sometimes play an important part in the selection of municipal employees. In 1919 Indiana began an experiment, now widely known as the "Indiana Plan," which deserves more than passing mention. The essence of this plan, which has been several times amended, is that it gives the state tax commission the right to pass upon municipal tax rates and bond issues. The city council in the first instance fixes the tax rate for the coming year, or proposes that money be borrowed for some municipal purpose. Any ten taxpayers, if dissatisfied, may then carry the matter to the state tax commission. The commission has no power to start proceedings, but once it has been called in by ten or more taxpayers its jurisdiction is sweeping. It may reduce any tax levy made by a city council, or it may reduce or strike out any item. It may reject or reduce any proposed bond issue.[9] In every case its de-

[8] See p. 71.

[9] Bond issues of less than five thousand dollars, however, are not subject to review by the commission.

cision is final. The commission has no authority, however, to increase tax rates or bond issues. Its task is to determine whether the cities of the state are spending too much —not to compel them to spend more.

The Indiana tax commission is not governed by local sentiment in making its decisions. If it believes that dishonest city officials are guiding public opinion into wrong channels for their own gain it will veto the local proposal regardless of popular demand. If it thinks that a definite rejection will serve the city's interests and make for greater efficiency it will not hesitate to ignore local preferences. Its responsibility is to the state and not to the people of any one community. In Iowa, where the plan of state administrative control over local finances was adopted in 1924, a somewhat different theory is accepted. There local sentiment is carefully considered by the state agency.

Much may be said for state control of municipal borrowing by means of a state tax commission. The state has a direct interest in maintaining the solvency of its cities. Its own credit is dependent in part upon their financial standing. It cannot afford to let municipal debts pile up without regard for the day of reckoning. And that it just what is likely to happen in the absence of state control. The people are too readily persuaded to approve extravagant outlays if they believe that a future generation will pay the bill. There must be some form of state control over city borrowing, and that control can best be exercised by an appointed commission. Careful examination of each proposed bond issue then becomes possible. The case is not so clear, however, for state control of local tax rates. In all probability the people of every community can safely be trusted to express their emphatic disapproval of every unwarranted suggestion to increase taxes.[10]

A few words of caution should be added at this point. Administrative control must not be confused with home

[10] This matter is considered in greater detail in a later chapter. See pp. 446-7.

rule. Home rule is a principle which limits the sphere of state supremacy; administrative control is a device by which state supremacy may be exercised. In many fields the state must always remain supreme, and in these fields the technique of administrative control should be developed. Trained experts should be placed in charge. But no amount of administrative control can take the place of municipal home rule. When purely local affairs are involved the people of the cities do not welcome state interference, however flexible and expert it may be. They ask the right to make their own decisions.

American "Rotten Boroughs"

State legislatures have always been controlled by representatives of the rural sections. A century ago the cities —even the largest ones—were small and for the most part politically insignificant. Most of the people were farmers, and it was but natural that farm interests should dominate every branch of state government. In recent years, however, the rapid growth of cities has menaced rural supremacy. New York City's population now exceeds that of the rest of the state. Similarly, Baltimore overshadows rural Maryland. Rhode Island's three largest cities contain more than half the state's population. Everywhere the cities are gaining at the expense of the rural districts. One would naturally expect, therefore, to find the balance of power in the state legislatures gradually shifting from the farm to the city. As a matter of fact, the rural lawmakers have found several effective means of keeping control in their own hands. Most commonly they have written into state constitutions the provision that no county may have more than a certain percentage of the legislature's membership, regardless of population. The Constitution of Pennsylvania, for example, stipulates that "no city or county shall be entitled to separate representation exceeding one-sixth of the whole number of Senators."[11] This despite the fact —or because of it—that Philadelphia has one-fourth of the population of the state. A somewhat similar clause has

[11] Art. II, Sec. 16.

given to New York City minority representation in the state legislature.

Another favorite plan is to provide that every county shall have one representative, or that it shall have *at least* one representative. In New Jersey the requirement of equal representation gives one senator to Cape May County, which has about twenty thousand people, and another to Essex County, with a population in excess of six hundred and fifty thousand. Wayne County, Michigan, which includes Detroit, has about one-third of the state's residents. It gets five of the thirty-two Senate seats, and fourteen of the one hundred seats in the House. Half of the people of Delaware live in Wilmington. They are represented by about fifteen per cent of the members of the state legislature.

The one provision of state consitutions which really favors the cities—the requirement of legislative re-apportionment every five or ten years—is simply ignored in many states. In Illinois, Missouri and Washington there have been no re-apportionments since 1901. Michigan is somewhat more up-to-date; it made its latest apportionment in 1903. During the intervening years, of course, the cities have grown rapidly. They have become dominant factors in every phase of state activity except the political. But they are still represented on the basis of census figures compiled nearly thirty years ago.

Most large cities bitterly resent this unequal treatment. In the spring of 1925 the city council of Chicago went so far as to approve unanimously a resolution of secession from the state of Illinois. The corporation counsel was directed to outline the proper course of action by which secession might be accomplished and his conclusion was "that practically the entire matter, so far as the legal procedure is concerned, rests with the legislature." In other words, council's resolution was merely an empty gesture. And yet the incident is significant, because it drives home two important facts: that the cities of the United States resent state interference in their local affairs, and that they are powerless to change the situation.

Municipal Liability

This chapter cannot be concluded without a discussion of municipal liability. The city is a great corporation, employing hundreds or even thousands of persons, and performing a multitude of different tasks. In the course of the daily routine injury is often done to person and property through the carelessness or inefficiency of city officials and employees. That is inevitable. A fire truck negligently driven may strike a pedestrian. A sewerage system inadequately maintained may flood the cellars of a dozen homes. Failure to enact an ordinance prohibiting the sale of impure foods may bring about many cases of serious illness. Failure to enforce such an ordinance may have equally serious results. Now the practical question constantly presented to the courts is this: is a city liable for the injuries inflicted by its officials and employees in the course of their work?

If the city were a purely private corporation the question could be answered readily enough. Private corporations are nearly always held responsible for the acts of their representatives. It is a general rule of law that a principal is liable for acts done by his agent in the ordinary course of employment. But the city is not merely a private corporation. It is an agent of the state. And the state is sovereign; it may never be sued without its consent. The courts draw a distinction, therefore, between the public or governmental acts of a municipality and its quasi-private or corporate acts. In some matters every city functions as an agent of the state. Through its police force it carries out state law. Through its health department it executes state policy. Some of its employees, though locally chosen, deal with matters of primary state interest. But there are many other municipal functions which resemble business more closely than government. Water supply is in this class. So are markets. A city may have a water plant of its own or it may grant a monopoly to a private water company. It may own and operate a public market or it may leave the establishment of markets

to private initiative. The distinction between governmental and corporate functions is important because it furnishes the test of municipal liability. A city is legally responsible for the acts of its officials and employees who are engaged in work of a corporate or quasi-private nature, but it is not liable for injuries inflicted by its representatives while serving in a governmental capacity.

This principle is logical enough. Since the state cannot be sued without its consent, then surely the city cannot be sued when it is acting as the agent of the state. But since private corporations are given no such immunity it follows naturally that immunity is also denied to cities when carrying on essentially corporate activities. The chief difficulty is not with the principle, but with its application. The courts have never clearly stated the distinction between public and corporate functions. They have labeled some municipal activities as public or governmental which certainly are not matters of primary state concern, and they have classified others as quasi-private or corporate which are seldom or never performed by private corporations. With regard to a number of functions the courts of the several states are in hopeless disagreement. Small wonder, therefore, that the average layman approaches the subject of municipal liability with considerable trepidation. An examination of some leading cases will help to make clear the trend of judicial decisions. It must be remembered, of course, that liability may always be imposed by statute.

In every state the work of the police department is regarded as a governmental function. Policemen are considered state officers, and so the city is not liable for their acts. This is true even though they are selected and dismissed in most instances by city officials, paid from the city treasury, and engaged much of the time in enforcing city ordinances. A leading case in point is Buttrick *v.* City of Lowell.[12] While Buttrick was standing peaceably upon the sidewalk, talking with but one person and causing no disturbance, two police officers of the city of

[12] 1 Allen (Mass.) 172.

Lowell ordered him to move on. He refused and they arrested him, using unnecessary violence. The policemen were clearly at fault, but the court refused to sustain an action against the city for damages. It said in part: "Police officers can in no sense be regarded as agents or servants of the city. Their duties are of a public nature. Their appointment is devolved on cities and towns by the legislature as a convenient mode of exercising a function of government; but this does not render them liable for their unlawful or negligent acts. The detection and arrest of offenders, the preservation of the public peace, the enforcement of the law, and other similar powers and duties with which police officers and constables are intrusted, are derived from the law, and not from the city or town under which they hold appointment. For the mode in which they exercise their powers and duties the city or town cannot be held liable. Nor does it make any difference that the acts complained of were done in an attempt to enforce an ordinance or by-law of the city. The authority to enact by-laws is delegated to the city by the sovereign power, and the exercise of the authority gives to such enactments the same force and effect as if they had been passed directly by the legislature. They are public laws of a local and limited operation, designed to secure good order and to provide for the welfare and comfort of the inhabitants. In their enforcement, therefore, police officers act in their public capacity, and not as the agents or servants of the city."

A person wrongfully injured by a policeman is not without legal remedy. He may bring suit directly against the officer. But that remedy is of doubtful value, because many members of municipal police forces are financially irresponsible. In many instances they own no real estate and only a small amount of personal property. Usually they are paid little more than a living wage. To secure a judgment against one of them for five thousand dollars, therefore, may be far easier than to collect the amount of the award.

Health work is regarded as public or governmental, and so the city is also free from liability in this field. In the

case of Wyatt *v.* Rome[13] a man who had been forcibly vaccinated with bad serum by municipal health authorities was denied the right to sue the city. When a patient in the municipal hospital was injured through the negligence of hospital employees it was held in Murtaugh *v.* St. Louis[14] that no liability attached to the municipality. A similar decision was given concerning the death of a pedestrian killed by a carelessly driven city ambulance.[15]

In almost all states fire protection is listed among the governmental functions. The city is not liable, therefore, for the negligent operation of its fire trucks nor for the careless handling of its fire fighting apparatus.[16] It is not obliged to keep its water mains free from obstruction so that they may be used when needed.[17] Even if the men engaged in putting out a fire carelessly allow sparks to escape from their engine in such quantities as to set fire to a neighboring house the city has no responsibility.[18] In the case of Hafford *v.* New Bedford[19] the doctrine concerning fire protection was clearly stated. Hafford had been run down and injured by a recklessly driven hose carriage, and he sued the city to recover damages. Said the court: "The members of the fire department of New Bedford, when acting in the discharge of their duties, are not servants or agents in the employment of the city, for whose conduct the city can be held liable; but they act rather as officers of the city, charged with the performance of a certain public duty or service; and no action will lie against the city for their negligence or improper conduct, while acting in the discharge of their official duty." A few state courts have called fire protection a corporate instead of a governmental function,[20] but they are decidedly in the minority.

Maintenance of schools is generally considered a public

[13] 105 Ga. 312.
[14] 44 Mo. 479.
[15] Maxmilian *v.* New York, 62 N. Y. 160.
[16] Brinkmeyer *et al. v.* City of Evansville, 29 Ind. 187.
[17] Mendel and Co. *v.* Wheeling, 28 W. Va. 233.
[18] Hayes *v.* City of Oshkosh, 33 Wis. 314.
[19] 16 Gray (Mass.) 297.
[20] Fowler *v.* Cleveland, 100 Ohio St. 158; Kaufman *v.* Tallahassee, 84 Fla. 634.

activity, and therefore the city is not liable for faulty construction of school buildings or for failure to keep them in proper repair.[21] The same principle applies in general to all public buildings. Poor relief and the care of parks are also regarded as public activities in most states.[22] With regard to street cleaning, sewage disposal and the removal of ashes and garbage there is a hopeless division of opinion.[23]

Municipal ownership and operation of utilities is everywhere considered a corporate or quasi-private function of government. Employees of the municipal water works or gas plant are agents of the city and not of the state, and therefore the city is liable for injuries wrongfully inflicted by them in the course of their work. It is under obligation to exercise reasonable care in carrying on its corporate activities—in laying gas and water mains, for example, or in maintaining electric light wires. So if private property is damaged through failure to repair a reservoir,[24] or some one is injured by contact with a fallen wire,[25] the city is liable. It is practically engaging in business "for the peculiar benefit of its inhabitants," and presumably it is making a profit from its commercial ventures. Its liability, therefore, is about the same as that of a private corporation.

Virtually every activity from which the city derives a monetary return is classed as corporate. Yet the distinction between governmental and corporate functions is not based solely on revenue. In most states a city may be sued for failure to keep its streets in proper condition, though street repairing is certainly not a money-making proposition.[26] And sometimes it is liable for injuries caused by defective lamp posts.[27]

A municipality is not liable for the misuse or non-use of

21 Kinnaire *v.* Chicago, 171 Ill. 332.

22 Clark *v.* Waltham, 128 Mass. 567; Blair *v.* Granger, 24 R. I. 17.

23 Young *v.* Metropolitan Street Railway Co., 126 Mo. App. 1; Missano *v.* New York, 160 N. Y. 123.

24 Bailey *v.* New York, 3 Hill (N. Y.) 531.

25 Posey *v.* North Birmingham, 154 Ala. 511.

26 Mayor and Aldermen of Chattanooga *v.* the State, 5 Sneed (Tenn.) 578.

27 Dickinson *v.* Boston, 188 Mass. 595.

its ordinance-making power. If council passes unwise laws concerning the storage of explosives, for example, or ignores the matter altogether, a great deal of damage may be done to life and property. If automobile speed limits are fixed too high, accidents may result. But unless the city ignored a specific duty imposed upon it by the state legislature it is not responsible.[28] Nor can it be sued for failure to enforce its ordinances. A law unenforced, say the courts, is for all practical purposes no different from a law repealed.[29]

Obviously the law of municipal liability is far from satisfactory. It contains so many technical distinctions that the average layman receives only an impression of confusion. The subtleties of the law are beyond his grasp. Why, he may well ask, should a pedestrian struck by a recklessly driven fire truck be unable to sue the city, while his neighbor injured by a water wagon may recover damages? Why should a city be immune if its unrepaired city hall causes mishaps, but liable if its unrepaired streets produce accidents? Such questions are more easily asked than answered. They suggest that the law might well be modified. An excellent example of legal reasoning is found in the case of Hodgins *v.* Bay City.[30] Hodgins lost his life while working as a lineman for the city, and his wife sued for damages. A municipal lighting plant is generally considered quasi-private, but in this instance current was furnished for use in street lighting as well as for sale to private consumers. The city would not have been liable, therefore, had the direct current used in street lighting caused the fatal injury. But it was proved instead that death had occurred from contact with the alternating current which supplied the city's residents, so damages were awarded.

In recent years the tendency of the courts has been to broaden the field of municipal liability. Activities once classed as governmental are now regarded as corporate in

[28] McDade *v.* Chester, 117 Pa. St. 422; Ison *v.* Griffin, 98 Ga. 623; McGrew *v.* Kansas City, 69 Kan. 606.

[29] Rivers *v.* Augusta Council, 65 Ga. 376.

[30] 156 Mich. 687.

some jurisdictions. As pointed out in a recent Florida case,[31] the newer forms of city government, such as the commission and city manager plans, are based on "the theory that a city's functions have become more and more ministerial, in that its duties consist largely, if not entirely, in the management of public utilities such as waterworks and sewerage systems, electric lighting and power plants, gas plants, telephones, and street railways—all properties not of the state, but of the people of the community or city, which are managed for the financial advantage and profit of the city. . . . It requires very little stretching of this doctrine to say: Therefore no municipal function is governmental; a city is not a political sub-division of the state, not a government, but purely a business, commercial, proprietary management of local public interest." This broad doctrine is applied only to commission and manager cities in Florida, and is not the law in any other state. But the day may come when it *will* be the law in every state.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chaps. III-IV.

—— *City Charter Making in Minnesota,* Minneapolis, 1922.

Arndt, W. T., *The Emancipation of the American City,* New York, 1917, pp. 3-44.

Cooley, R. W., *Handbook of the Law of Municipal Corporations,* St. Paul, 1914.

Dillon, John F., *Law of Municipal Corporations,* 5th ed., 5 Vols., Boston, 1911.

Elliott, C. B., *Principles of the Law of Municipal Corporations,* 3rd ed., Chicago, 1925.

Flouton, A. B., *Outline of the Law of Municipal Corporations,* Brooklyn, 1926.

—— *Selections of Cases on the Law of Municipal Corporations,* Brooklyn, 1925.

Goodnow, Frank J., *Municipal Home Rule,* New York, 1903.

Goodnow, F. J. and Bates, F. G., *Municipal Government,* New York, 1919, pp. 63-148.

Illinois Constitutional Convention, Bulletin No. 6, Springfield, Ill., 1920.

Massachusetts Constitutional Convention, Bulletin No. 11, Boston, 1918.

[31] Kaufman *v.* Tallahassee, 84 Fla. 634.

Maxey, C. C., *Outline of Municipal Government,* New York, 1925, pp. 14-35.
——*Readings in Municipal Government,* New York, 1924, pp. 9-51.
McBain, H. L., *American City Progress and the Law,* New York, 1918.
——*Law and Practice of Municipal Home Rule,* New York, 1916.
McQuillin, Eugene, *Law of Municipal Corporations,* 8 Vols., Chicago, 1911-13 and 1921.
Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chaps. IV-VI.
——*Municipal Government and Administration,* New York, 1923, Vol. I, Chaps. VIII-XI.
National Municipal League, *Model City Charter,* New York, 1926.
Reed, Thomas H., *Municipal Government in the United States,* New York, 1926, Chaps. VIII-IX.
Tooke, C. W., *Selection of Cases on the Law of Municipal Corporations,* Chicago, 1926.
Wallace, Schuyler, *State Administrative Supervision Over Cities in the United States,* New York, 1928.
White, E. F., *Treatise on the Law of Negligence of Municipal Corporations,* Indianapolis, 1920.

Anderson, William, "The Extraterritorial Powers of Cities," *Minnesota Law Review,* Vol. X, 1926.
Fairman, Charles, "Some Limitations on the Police Power of Municipalities Imposed by the Federal Constitution," *Illinois Law Review,* Vol. XIX, 1925.
Hatton, A. R., "Free Cities in a Free State," *Illinois Municipal Review,* April, 1928.
Horack, F. E., "City's Liability on Street Improvement Bonds in Iowa," *National Municipal Review,* April, 1928.
Lowrie, S. G., "A Needed Supplement to Home Rule Charters," *American Political Science Review,* November, 1927.
McQuillin, Eugene, "Some Contributions of Urban Life to Modern Civilization," *Century Law Journal,* Vol. XCIV, 1922.
Montague, R. W., "The Law of Municipal Home Rule in Oregon," *California Law Review,* Vol. VIII, 1920.
Robb, Donald, "The Effect of Alteration or Abolition of a Municipal Corporation upon Its Debts," *Minnesota Law Review,* Vol. VII, 1923.
Story, R. M., "Local Self-Government for Cities and Counties," *Illinois Law Bulletin,* Vol. II, 1919.
Webbink, Paul and Maddon, W. R., "Home Rule Charters in Michigan," *Michigan Municipal Review,* February, 1928.
Welsh, Orville A., "Government by Yokel," *American Mercury,* October, 1924.

CHAPTER VI

PROBLEMS OF METROPOLITAN GOVERNMENT

It is difficult to say at just what point a city assumes metropolitan proportions. There is no hard and fast line between the mere city and the metropolis. Yet the distinction is well worth making, for the metropolitan center has problems peculiarly its own—problems that differentiate it sharply from smaller communities. A metropolis is something more than a small city grown large, with other cities clustering about it. For in the process of its growth it acquires new needs, new methods, a new viewpoint.

Some writers define a metropolitan region as a compact area with a central city of at least half a million inhabitants.[1] No objection need be made to such a definition. For our purposes, however, a city may be considered a metropolis if it has a population of two hundred thousand. By the time it has grown to that size it has probably developed a number of metropolitan characteristics—extreme congestion, a tenderloin, a considerable transient population, a group of satellite cities, and at least the beginning of a cosmopolitan outlook.

Half a century ago there were ten American cities in the two hundred thousand class. Today there are more than thirty, and five or six others are added every decade. These big urban centers are growing fast, and as they grow their problems become more complex. The mere fact of congestion brings a host of consequences in its wake. Traffic becomes a far more serious problem, and new ways must be found to handle it. Crime is likely to increase, and more effective steps must be taken to combat it. Contagious diseases are more readily communicated, and care must be

[1] See, for example, Wm. B. Munro's *Government of American Cities*, 4th ed., p. 447.

taken to prevent their spread. High pressure water systems are needed for proper fire protection; improved transit facilities must be provided for adequate transportation service.

Moreover, all these things cost money. That is why it costs more *per capita* to run the government of a large city than the government of a small community. The largest municipalities in the United States are not only spending more than their less populous neighbors; they are spending considerably more per person. Census figures emphasize this point. The United States Census Bureau divides the cities of the nation into five groups on the basis of their population. Group I contains the cities with populations in excess of five hundred thousand; Group II includes those from three hundred thousand to five hundred thousand. The thirty thousand to fifty thousand cities are found in Group V. In 1927 the cities of Group I—the huge, metropolitan centers—spent sixty-one per cent more per person than the small cities of Group V. The Group I cities also made a larger per capita expenditure than the municipalities of Group II, but only nine per cent larger. The same relationship between groups persists year after year. It is possible, therefore, to formulate a general law: *The per capita as well as the total cost of city government tends to increase with every increase in the population, other factors being equal.* It is necessary to add the final saving clause, because other forces may tend to offset the operation of this law. A considerable population growth may be accompanied by an era of falling prices or the election of a mayor and council pledged to economy. But in general the rule holds, for nearly every problem of city government is accentuated in the metropolis. Virtually every municipal service involves a greater outlay. Even rising property values offer but a partial compensation in the form of increased taxable wealth.

Rising costs are not the chief problem of the large cities, however. Far more serious is their inability to control the development of their surrounding territory. Corporate boundaries are fixed by law, and for most purposes the

jurisdiction of the city ends at the city line. But the problems of government show scant respect for city limits. Criminals cross the line at will; so do epidemics and conflagrations. Water supplies must often be procured from distant sources, and frequently the city's wastes must be disposed of far beyond its borders. The highway system of the entire region surrounding the city should be a unit. Suburban land should be platted with reference to the city plan. The parks within the city's boundaries and those just beyond should be integrated into a single system.

Co-ordination of Metropolitan Services

Virtually every great city faces the problem of co-ordinating local services beyond its limits. Unless its boundaries have been recently extended they scarcely ever include the entire area which might well be called the economic city—the territory directly dependent upon the metropolis for its life and growth. In that territory are the homes of thousands who come every day to their work in the city. In it are factories drawing on the city's labor supply without paying the city's higher taxes. In it are farms which supply many of the city's needs. In it are smaller communities, perhaps cities in their own right, with governments and problems of their own, but after all merely satellites shining in the reflected splendor of the metropolis. The great trunk highways bearing the city's traffic must of necessity pass through this outer rim. The utilities which serve the city probably serve the outskirts also. Boston, as defined by the Massachusetts legislature, has a population of seven hundred and fifty thousand,[2] and an area of less than twenty-eight thousand acres. Metropolitan Boston, as defined by the economic forces that make and unmake cities, has an area of three hundred and sixty-five thousand acres and a population nearing the two million mark. So it is with New York, Chicago, Philadelphia, San Francisco—all the great urban centers of the nation. In every instance the political boundaries include but a fraction of the metropolitan region.

[2] According to the census figures of 1920.

One of the unfortunate results of this situation is duplication of effort. Officials of the metropolis and of the surrounding cities and towns often fail to co-operate. They go about their tasks of testing milk supplies, arresting criminals, enforcing traffic regulations and building codes, with little or no regard for their neighbors. And of course the same work is done time and again, when it might better be done once for the entire region. Salaries are paid to an excessively large number of local officials. Within Wayne County, for example, which virtually constitutes the metropolitan area of Detroit, are included five cities, twelve villages, twenty-one townships, and one hundred and twenty-one school districts of various grades. Every community selects its own officers. There are seventeen chiefs of police and thirty-eight treasurers. Yet the territory they serve is essentially an economic unit.

When a city grows to such a size that it dominates the county in which it happens to be situated, paying most of the county's taxes and including within its limits most of the county's population, there is apt to be some duplication and a great deal of conflict between city and county officials. Nearly nine-tenths of the residents of Cook County, Ill., live in Chicago, yet the responsibility for many of Chicago's local affairs is bewilderingly divided between city and county officials.[3] Opportunities for shifting the blame are almost limitless. Cleveland, Los Angeles, Oakland and many other American cities face similar difficulties.

Even more serious than the matter of duplication is the neglect of problems claiming the attention of the entire region. Tasks are left undone because no one is given authority to do them. To illustrate, every metropolitan area should have a regional plan co-ordinating the facilities of the entire region and insuring harmonious development. But who is to prepare such a plan? Who shall enforce it? The officials of the metropolis? As a rule they have no jurisdiction beyond their own territory. The representatives of the outlying districts? They are powerless to enforce their rulings within the limits of the great city.

[3] See p. 87.

Could the work be entrusted to state officials? Perhaps. There would then be no question of conflicting jurisdiction or inadequate powers. But the dangers involved in overburdening the state government with matters of essentially local concern have already been pointed out.[4] Some other more satisfactory solution of the problem should certainly be sought.

Experience shows that voluntary co-operation cannot be relied upon to any considerable extent. Many local officials are extremely jealous of their authority, and unwilling to sacrifice any portion of it for the common good. As a result widely different standards are established in different parts of the metropolitan area. Builders unwilling to meet the requirements of a rigid building code carry on their operations just beyond the city limits. Carefully planned programs of municipal development come to a dead halt at the boundary line. Fire hazards not tolerated within the city's borders are permitted just beyond. When two or more states are involved, however, any plan of activity *must* be based on friendly co-operation. There is no other way to get results.

Annexation

In an effort to meet the needs of metropolitan regions four different plans have been tried. None has proved entirely satisfactory. Most commonly corporate limits have been extended. This is still the usual solution. When a city overgrows its boundaries new boundaries are created by law—not so soon as the need becomes apparent, perhaps not until the city has suffered from growing pains for a quarter of a century or more. But eventually the legislature shakes off its somnolence and traces a new boundary line more suited to changed conditions.

This plan has a number of advantages which cannot be ignored. For one thing, it gives city officials adequate control over the newly annexed territory. Their authority is as complete in the new sections of the city as in the old. The scheme is no half-way measure. It makes the region a

[4] See Chaps. IV and V.

political as well as an economic unit. Then, too, it simplifies the mechanism of government. One chief of police takes the place of a dozen or more. One council determines policies for the entire region. One local government replaces many. And since authority is concentrated in the hands of one set of officials they can be held responsible for results. Fewer opportunities are presented for evasion and quibbling.

Sometimes it is possible to reduce duplication and simplify the structure of government by combining city and county. As early as 1854 the Pennsylvania legislature gave the city of Philadelphia the same boundaries as the county, transferring to the city many county powers, including the power to lay and collect county taxes. Philadelphia County continued as a separate government, however. Two years later California went a step further and effected a virtually complete consolidation of the city and county of San Francisco. When Greater New York was created in 1898 it included five counties, and these counties now remain chiefly as districts for the administration of certain phases of justice. Most of their functions have been transferred to the city government. Consolidations of this sort, resulting in the elimination of many needless positions, might well be expected to reduce governmental costs. In the case of San Francisco such a reduction actually occurred. Usually, however, simplified government has accomplished no corresponding savings. Tax rates have continued to rise as before. Nor is this so hard to understand if we remember that every extension of municipal boundaries implies a corresponding expansion of municipal services. When suburban towns throw in their lot with the metropolis they naturally expect to receive a number of things in return—better street lighting, better fire protection, more frequent collection of ashes and trash. Usually they are not disappointed. The money saved by consolidation is used to improve suburban standards. The suburbs themselves meet a portion of the cost, because consolidation with the city means that they must pay the higher city tax rate. But their contribution is not enough. Every annex-

ation of territory means additional overhead expense for the city. It has already been pointed out that municipal government is a business of rising costs.[5]

In at least three instances separation of city and county has been tried instead of consolidation. Baltimore, St. Louis and Denver have been detached from their respective counties and given entirely independent governments of their own, with the status of counties. The scheme has accomplished a great deal, but it has proved vitally defective in a number of respects. For one thing, though it strikes at duplication of effort, it makes no attempt to meet the need for regional co-ordination. Regional problems are left unsolved because local officials have no power to deal with them. Moreover, city-county separation often works a real hardship on the people left in the old county. The plan of separation usually takes from them eighty or ninety per cent of the people and the wealth, leaving them eighty or ninety per cent of the territory. The metropolis literally selects all the choice portions of the county, and then renounces its responsibility for maintaining what is left.

Annexation as a solution of the problems of metropolitan government has a number of serious disadvantages. It is generally unpopular with the residents of the territory to be annexed. Almost any suggestion to extend city boundaries is virtually certain to receive its strongest opposition outside the city. Many a proposed consolidation has been defeated by the outlying districts. People living just beyond the city limits feel, not without reason, that they already have most of the benefits of city life without helping to pay the city's bills. They see no reason for assuming an additional tax burden, and it is difficult to convince them that they should. Arguments about justice and increased efficiency seem rather weak when confronted with the prospect of a twenty cent increase in the tax rate. Moreover, local pride plays a part. Thriving small communities dislike the thought of casting aside their identity and becoming merely the numbered wards of a great metropolis. And

[5] See p. 123.

it must not be forgotten that local politicians are anxious to cling to their jobs.

State legislatures can ignore popular sentiment, of course, and consolidate local governments as they see fit. In fact, city boundaries have often been extended without any attempt to ascertain local preference. Sometimes a legislature goes through the motions of learning the popular will, and nothing more. The question of New York's consolidation, for example, was presented to the people of the districts concerned with the express stipulation that the vote should be considered merely advisory. The plebiscite in the case of Denver included the voters of the entire state. The Union of Pittsburgh and Allegheny was approved by a majority of those voting *in both cities.* This was obviously a trick election, for it enabled Pittsburgh to outvote Allegheny and overcome the smaller city's adverse majority.

The more recent tendency, however, has been to emphasize the importance of local sentiment. When Wheeling absorbed its suburbs in 1920 the consent of both city and outskirts was required, the residents of each voting separately. Virtually all recent annexation proposals contemplate an expression of opinion by the people of the districts immediately concerned. Certainly their preference ought to be ascertained, for democratic government is postulated on the consent of the governed. But every referendum is another stumbling-block in the path of metropolitan development. The people of the suburbs all too often do not wish to be absorbed; they consider absorption too expensive.

Another objection to a mere extension of city limits is that it does not permanently solve the metropolitan problem. Boundaries suited to present needs may prove totally inadequate in another decade. The corporate limits of Los Angeles have been broadened at least fifteen times during the present century, and Detroit's area has been increased twelve times or more. The cities are constantly expanding, constantly widening the sphere of their influence, and they are virtually certain to overflow any boundaries established by law.

Moreover, if corporate limits are made so broad as to have any degree of permanence they must of necessity include a great deal of agricultural land, and perhaps even independent cities. To permit a proper solution of the metropolitan problem they must be extended many miles beyond the outer rim of urban growth. The metropolitan region of New York City [6]—the territory whose economic and social activities center in the metropolis—has an area of fifty-five hundred square miles and a population of nine millions or more. Within this region are nearly four hundred different political units—states, counties, cities, towns, villages, boroughs, townships. The problems of this district cannot possibly be solved by annexation, for no one government has power to authorize the necessary extension of New York City's boundaries beyond state lines. Moreover, it is unlikely that the New York legislature would be willing to permit even the annexation of the necessary territory within its own jurisdiction. By so doing it would quadruple the present area of the metropolis. State legislatures, not without reason, look upon cities primarily as urban communities. They can seldom be induced to fix city boundaries fifteen or twenty miles beyond the limit of urban development, and perhaps they are right. The blending of city and country under a single local government dominated by urban interests might not be a happy experiment for the country folk directly affected.

The Borough Plan

Another plan for meeting the needs of metropolitan regions deserves more than passing mention because it has been adopted by New York, metropolis of the New World. The creation in 1898 of Greater New York raised a number of serious problems. In all American history so large a territory and so many people had never before been consolidated into a single city.[7] It was freely predicted by the opponents of annexation that the scheme would fall of

[6] As defined by the Russell Sage Foundation in its surveys of *The Regional Plan of New York and Its Environs.*

[7] Los Angeles, however, has since far outstripped New York in area.

its own weight. The central government of the city, it was said, would be topheavy. It would have too much work to do. It would be out of touch with local sentiment. All sections would not be adequately represented.

In order to meet these objections a certain amount of autonomy has been given to the five boroughs which comprise the city.[8] Each borough has a president selected by its voters for a four-year term. Each has a school board of its own, responsible only for minor matters. Each is charged with the construction and maintenance of streets and sewers, the care of public buildings and the enforcement of building regulations. Most other phases of the city's administration are in the hands of city officials. The presidents of the five boroughs, together with the mayor, the city controller and the president of the board of aldermen, sit as the board of estimate and apportionment. This board is really the upper house of the city council. Its approval is required for all local legislation. In addition it has a large number of administrative functions. It grants franchises, passes upon matters connected with the organization of the municipal service, correlates local improvements, and prepares each year a tentative budget. Through their membership on the board, therefore, the borough presidents are persons of considerable importance. Yet even when the five of them work together they are not sure of controlling the board's policies. A system of plural voting keeps them permanently in the minority. The mayor, the controller and the president of the board of aldermen—the three members of the board of estimate and apportionment chosen by the voters of the entire city—have three votes each, while the borough presidents have but seven votes among them.

The borough plan has been tried by no other American city. Local pride has been appeased instead by the use of local names or the retention of minor local offices. In Europe, however, such great urban centers as London and Berlin are organized along somewhat the same lines as New York. The details vary considerably, of course, but in all

[8] Manhattan, Brooklyn, Queens, the Bronx, Richmond.

three cities the work of administration is divided between the municipal and borough or district authorities. A number of advantages are claimed for such an arrangement. First, it satisfies local sentiment. Outlying communities are more easily persuaded to unite with the metropolis when they are permitted to retain a measure of their identity. The fear that their wishes will be ignored is not so strong, because under the borough plan a number of matters are entrusted to locally chosen borough officials. If only because the scheme tends to reconcile the residents of the outlying districts it is entitled to consideration. For suburban opposition is the greatest obstacle to metropolitan political expansion.

Another supposed merit of the borough plan is that it prevents overburdening of the central city government. By the time an urban community acquires a population of from four to seven millions and an area of several hundred square miles it must of necessity develop an elaborate governmental organization. There must be hundreds of bureaus employing thousands of persons. New York City has over one hundred thousand full-time employees, and its budget calls for an annual expenditure of more than half a billion dollars. The governments of all the Scandinavian countries combined do not spend so much. With great cities like New York and London, say the friends of borough government, there is the possibility of over-organization. Red tape and needless formalities may interfere with maximum efficiency. Of course, this danger does not always materialize. Some of the largest cities are governed far more effectively and economically than their smaller neighbors. But greater skill is required to make them function smoothly. The borough plan minimizes the likelihood of over-organization. It reduces the number of the central city government's activities by placing the boroughs in charge of certain local services.

New York's experience would seem to indicate that this advantage is of no great practical importance. The governments of Manhattan, Brooklyn and the other boroughs have in reality very little authority. They control less than

ten per cent of the city's total expenditures. Their presidents can be outvoted at any time by the other members of the board of estimate and apportionment. Their connection with the public school system is chiefly advisory. In all probability the work they do could be carried on as well or better by city officials. London and Berlin, however, have placed greater reliance on decentralized administration. The London boroughs and the Berlin *Verwaltungsbezirke* exercise a large measure of control over local matters.

A vital defect of the borough plan is its tendency to foster unnecessary duplications. Why should New York City have five or six officials in charge of street and sewer work instead of one? Why should London's health activities be hopelessly divided? Multiplication of authorities is apt to result in wasted energy and unnecessary expense. The advocates of the borough scheme stress the danger of over-organization, should the whole metropolis be brought under a single unified government, but they forget that extreme administrative decentralization is likely to produce useless, extravagant duplication of effort. The sins of one government may be as nothing compared to the sins of many. Moreover, conflicts of authority are almost certain to occur. In London the disputes between county and borough officials are so numerous that at times they seriously interfere with the work of municipal administration. Opportunities for accepting the praise and shifting the blame are always at hand. For most American cities, therefore, it may safely be said that the faults of the borough plan outweigh its merits. Other and less troublesome means of satisfying suburban pride should be found.

The Extramural Plan

One way of meeting metropolitan needs is to give to the central city a limited jurisdiction beyond its boundaries. Such a plan might seem at first thought a rather radical departure from the accepted order. We are accustomed to think of the city line as a place where city power and city activity abruptly stop. As a matter of fact, many

municipal activities are carried on beyond the municipal boundary. The legislatures frequently authorize cities to go beyond their corporate limits for a number of different purposes. Water supply is a good example. Pure water in sufficient quantity is essential to the health and comfort of the people of every community, and if an adequate supply cannot be obtained within city limits the legislature can readily be persuaded to permit the acquisition of more distant land for a reservoir and the construction of necessary mains to the city's borders. In some states the courts, finding no mention of the matter in the charter, have even been willing to imply a city's right to secure a suitable water supply beyond its limits.[9] But pure water is not the only necessity which a city may be unable to find close at hand. It may need rock and gravel to build its highways. It may require more park land than can be obtained within its borders. For such purposes the legislature will usually extend a city's jurisdiction. Frequently cemeteries, poorhouses, hospitals and quarantine stations owned by the city are established in neighboring territory. These matters present no real problem. The city is acting in its quasi-private capacity, and not as an agent of the state. It holds hospital or park land in an adjoining city or a nearby township just as a private person might. Its control over the land is no greater than that of any private owner. Its hospital or park employees working beyond city limits must obey local village or borough ordinances.

Not only may a city own land and carry on corporate activities beyond its borders, however. With the consent of the legislature it may exercise a limited amount of governmental power over the affairs of neighboring cities, towns and villages. Some of the earliest instances of the extramural power of cities are found in connection with liquor regulation. It was soon discovered that local option laws were worth little because saloons were so frequently opened just beyond the city line. In order to correct this

[9] Hall *v.* Calhoun, 140 Ga. 611; Newman *v.* Ashe, 9 Baxt. (Tenn.) 380.

situation the legislatures of a number of states gave to the cities the right to determine whether dram-shops might operate within a certain distance of their borders—one or two miles or even five miles. More recently municipalities have been authorized to regulate or prohibit slaughter houses, hog farms and other nuisances found beyond their limits, but so close as to menace the health or comfort of their residents. Many cities pass upon the platting of land and laying out of streets in the outer rim of territory adjoining their boundaries. In this way some of the problems of metropolitan government are partially solved. Matters affecting both the city and its satellites are placed under the control of the city's officials. Instead of extending the city's jurisdiction for all purposes, as in the case of annexation, the legislature extends jurisdiction only for certain purposes. Some years ago the Tennessee legislature authorized the city of Memphis to exercise "all governmental powers and police powers" within two miles of its borders, and gave it control over health, nuisances and buildings for another eight miles beyond the city line. This grant of power was so broad, however, that it was held by the courts to violate the guarantees of the state constitution.[10]

The plan of meeting regional needs by granting extramural powers to the central city of the region has some marked advantages. It can be put into effect with little trouble and with few formalities. All it requires is a simple amendment to the existing law. No new charters are framed; no new agencies are created. No election need be held to secure an expression of popular opinion. No radical changes in the structure of government are necessary. The least possible violence is done to the existing order, and therefore opposition is reduced to a minimum. For most people are bitterly hostile to change. Another merit of the scheme is that it gives to the smaller

[10] Anderson, Wm., "The Extraterritorial Powers of Cities," 10 *Minn. Law Review*, 475-97, 564-83. This carefully prepared monograph is by far the best study of the subject.

communities of the region a wide range of independent action. Local governments continue as before, with most of their powers unaffected. Local affairs remain under the control of locally chosen officials. The extraterritorial authority of the hub city extends only to matters of region-wide interest. Much greater emphasis is placed on local autonomy than under the borough plan.

There is some doubt, however, whether the greater freedom of the small communities should be listed as a merit or a defect. If it proves a real barrier to regional unity it ought speedily to be limited. And in many instances it has undoubtedly been a marked handicap. The central cities have generally found their extraterritorial powers inadequate. They have been denied the right to deal with many of the most important regional problems. Still more serious, they have been permitted to go at most only five or six miles outside their boundaries. And the limits of the region, as fixed by the forces of industrial and social activity, may be twenty miles beyond.

A grave disadvantage of the extramural plan is that it gives to one unit of local government a measure of control over the territory and people of another. This is certainly contrary to the generally accepted theory of democracy. It means that suburban residents must obey ordinances of a council they have had no part in selecting, and that the use of their land may be restricted without their consent. When an outlying section is annexed its people are given a voice in the affairs of the greater city. They vote at municipal elections, and their representatives help to determine municipal policies. But the extramural plan holds out no such inducement. It is quite frankly government without the consent of the governed. Moreover, it is likely to produce confused and uncertain administration. Even if the powers to be exercised by city officials in adjacent territory have been specified with great care, disputes are almost certain to arise. The plainest language may be interpreted in many different ways. Officials may deliberately exceed their authority. And the all too frequent result is disagreement and ill feeling.

The Region

A plan for meeting metropolitan needs which has recently gripped the imagination of administrators and students of government is the creation of a new political area—the region. In many respects the metropolitan territory of every great city is already an economic unit. Its several parts are securely bound together by the forces of trade and industry. Thousands of its people are city folk by day and suburban residents by night. Yet its needs are so diverse that complete consolidation under a single government would create a host of fresh problems. Why not, therefore, retain the existing cities and townships and boroughs, with their separate mayors, their separate councils and their separate school systems, and superimpose upon them an additional unit of local government, embracing them all, but responsible only for matters of regional importance? The region's governing body—commission, council, or whatever it might be called—would have control over planning, traffic, transportation. Such matters as water supply and sewage disposal might also be placed under its jurisdiction. Other functions could be added from time to time as they acquired regional significance. For the most part, however, the existing local units would continue as before. The cities and towns of the region would still choose their own officials and still determine most of their own policies.

The Massachusetts legislature has already adopted some such plan for the Boston region. Parks, water supply and sewerage have been placed in charge of a metropolitan district commission, whose jurisdiction extends over Boston and all the neighboring cities and towns for a distance of about fifteen miles. This commission is appointed by the governor, and therefore is not directly dependent on local approval. It has a planning division, added in 1924, which advises the legislature concerning the development of a regional plan.

In the Canadian province of Quebec the finances of the region surrounding Montreal are under the jurisdiction of

a metropolitan commission of fifteen members. The city of Montreal selects eight of the fifteen, and therefore its control of the commission is assured. One member, who has no vote, represents the provincial government, and the remaining six are chosen by the cities and towns flanking the metropolis. The commission has broad powers over fiscal matters. It passes upon the proposed loans of all the communities in the region except Montreal, and alters their property valuations when necessary. It has no control over Montreal's fiscal policies, but it may borrow on the combined credit of all the cities and towns, including Montreal. Its decisions are final. So successful has it been in strengthening the credit of the weaker municipalities and in putting the finances of the region on a sound basis that many suggestions have been made to increase the scope of its authority, giving it control over other matters of regional importance.

There are numerous other examples of regional or district commissions in charge of metropolitan affairs. The sanitary district of Chicago covers an area of more than four hundred square miles. Its nine trustees are chosen by the voters of the district. Milwaukee has a metropolitan sewerage commission. A planning commission has been created for Los Angeles County. The New York Port Authority is the product of an agreement made by the states of New York and New Jersey and ratified by Congress. In Europe boards and commissions with regional powers are fairly common. Neither in Europe nor in the United States, however, are these metropolitan commissions given control over all matters of regional importance. They are entrusted with sewage disposal or water supply or planning, while other functions affecting regional welfare are left in the hands of city and village officials.

If the region is to develop as a new unit of local government in this country, a significant question must first be answered: How are its officials to be chosen? Should they be elected or appointed? If appointed, by whom? The Boston method of appointment by the governor is used in some states. But the widespread adoption of this plan is unlikely, for it violates the principle of home rule. It

gives to state-appointed officials control over matters which obviously are not of primary state concern. If state or city interests were always paramount with regard to every function of government there would be no excuse for the creation of regional boards and commissions. The whole problem could be solved simply enough by placing the cities in charge of their local affairs, and turning everything else over to the state authorities. As a matter of fact, however, many governmental functions affecting more than one community are far from state-wide in their scope. The water supply system and the recreational facilities of the city of St. Louis are of interest to the entire St. Louis metropolitan district, but they have little effect on conditions in the Ozarks. It is quite as unwise to place regional matters under the jurisdiction of state officials as to entrust them to the authorities of a single city. Moreover, it is quite as unpopular. City folk have had enough of state-appointed commissions.

There are other ways, of course, by which regional officials might be chosen without resorting to popular election. They might be selected by the councils of the municipalities affected, as are the members of the Montreal metropolitan commission.[11] They might, as frequently suggested, be appointed by the judges of the courts in the region—an arrangement obviously designed to keep the commission members out of politics, but likely to have the opposite effect of drawing the judiciary into the political mire.

If regional commissions are to be established, however, there is at least one valid reason why their members should be elected. They must formulate broad policies concerning regional activities, and naturally the people desire a voice in those policies. The practical objection raised to direct election is that it usually gives complete control to the metropolis. The representatives of the outlying communities find themselves outvoted on every proposition. It is possible, of course, to provide that every city and town in the region, regardless of its size, shall have one vote, or that no city, however large it grows, may choose more than forty or forty-five per cent of the total membership. Yet such

[11] Except two, who serve *ex officio*.

restrictions violate the principle of majority rule, and are likely to cause bitter resentment. Essentially they are no different from the clauses which now limit urban representation in the state legislatures—and those clauses produce nothing but trouble, even leading cities to the verge of secession.[12]

Strong arguments can be advanced in favor of creating a regional commission to solve regional problems. First, it means the preservation of local self-government. All the local units are retained, and in most matters they continue as before. The old traditions and the old loyalties remain practically unchanged. Only those functions which have outgrown city boundaries are transferred to the region. Then, too, a regional commission can be so constituted as to give proper representation to every local community. A majority of its members may be chosen by the central city, but if the central city represents seventy or eighty per cent of the population and wealth of the region, as it usually does, its predominant position ought certainly to be recognized.

An important advantage of the regional plan is its flexibility. Once the new agency has been set up, it may readily be given new duties. As functions become of regional importance they may be transferred from city and town to the region. If some functions outgrow even regional boundaries they may be taken from the region and placed directly under the jurisdiction of state officials. A decade ago planning was universally considered a municipal function. The movement was christened "city planning." Today regional planning holds the center of the stage. Planners talk in terms of the metropolitan area. There are even some who look into the future and dream of state and national plans. Other functions of government are passing through a similar transition. And as they change the powers of the regional commission may be changed to meet the new conditions.

Objections have been raised to the creation of a regional commission, of course. No plan yet devised to meet regional

[12] See p. 113.

needs is entirely satisfactory. One defect is that the units of government are increased. We already have too many administrative areas—counties, cities, townships and school districts, many of them with overlapping boundaries and conflicting jurisdiction. If we make the region another unit of local government we add to the number, and we may also add to the confusion. The movement for city-county consolidation is intended to produce greater simplicity. But our government will remain as complex as ever if we abolish a large number of county offices and put in their place a complete regional government.

There is another aspect of the matter. Present-day students of government look with disfavor upon the election of a large number of officials.[13] They point out that the average man is too busy with his own affairs to examine the records of candidates for a great number of offices, and that he cannot be expected to vote intelligently unless the offices to be filled by popular election are few and outstanding. The modern trend is toward a shorter ballot. Coroners, sheriffs, department heads formerly elected are now appointed in many cities. But regional government, if we assume that the commission of the region is to be popularly chosen, is a step in the other direction. It adds materially to the voter's burden. Regional officials could be appointed, of course—perhaps by the councils of the member municipalities, as at Montreal. That might be the proper solution. Certainly it would remove one objection to the creation of a regional commission.

The idea of a local super-government, extending beyond the limits of a single city and dealing with matters of general importance, is not new. In fact, the county now serves the purposes of regional government, though rather crudely, in more than one metropolitan area. It brings together under one set of officials the central city and some of its satellites. It deals with some region-wide problems. But it does not usually lessen the need for a new unit of government—a region, metropolitan district, or something of the sort. For the county's boundaries have been de-

[13] See Chap. VII.

termined without reference to economic development. Its functions have been assigned with little regard for economic needs. But the region, if set up as a new administrative area, would presumably be designed to solve metropolitan problems. Otherwise there would be no excuse for establishing it.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chap. V.

Chicago Bureau of Public Efficiency, *The Consolidation of Local Governments in Chicago,* Chicago, 1920.

Detroit Bureau of Governmental Research, *The Metropolitan Area,* Detroit, 1923.

Douglass, H. P., *The Suburban Trend,* New York, 1925.

Gilbertson, H. S., *The County,* New York, 1917, pp. 151-67.

James, H. G., *Local Government in the United States,* New York, 1921, pp. 437-49.

McBain, H. L., *Law and Practice of Municipal Home Rule,* New York, 1916, pp. 498-531.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XXIV.

——*Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XXII.

Peters, Andrew J., *Greater Boston: An Appeal for the Federation of the Metropolitan Cities and Towns,* Boston, 1919.

Philadelphia Bureau of Municipal Research, *The City and County of Philadelphia: A Discussion of Their Legal Relations,* Philadelphia, 1923.

Purdom, C. B., *The Building of Satellite Cities,* New York, 1925.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XVIII.

Regional Plan of New York and Its Environs, *Major Economic Factors in Metropolitan Growth and Arrangement,* New York, 1928.

Taxpayers' Association of California, *City and County Consolidation for Los Angeles,* Los Angeles, 1917.

Brooks, R. C., "Metropolitan Free Cities," *Political Science Quarterly,* June, 1915.

Dykstra, C. A., "Cleveland's Effort for City-County Consolidation," *National Municipal Review,* October, 1919.

Munro, W. B., "Do We Need Regional Governments?" *Forum,* January, 1928.

Reed, T. H., "The Region, A New Governmental Unit," *National Municipal Review,* July, 1925.

CHAPTER VII

THE THEORY OF CITY GOVERNMENT

Most Americans take pride in the thought that they are intensely practical. In city government, as in other matters, they boast that they have no time for theory, and that they are interested only in results. Of course, they delude themselves. City government, like every rational human activity, is based on theory. It must be. For after all theory is an attempt to explain existing facts. It is a body of definite principles. And only fools would create a government without trying to find some principles to guide them.

The men who have framed our American city charters—and our constitutions also, for that matter—have had theories in abundance. They have based their work on such concepts as majority rule, frequent elections, small salaries. The list might be extended almost indefinitely. And these doctrines have gained widespread acceptance. Until recently they have generally been regarded as axiomatic. Yet many of them are unsound, and have failed to stand the test of practical application. Many of them are at variance with the facts. Small wonder, therefore, that the governments founded on such doctrines have often proved unsatisfactory. Defective theories are responsible for a great deal of defective American city government.

Division of Powers

Take, for example, the twin theories first popularized by Baron Montesquieu nearly two centuries ago—the doctrine of the division of powers and the doctrine of checks and balances. Every grant of power, according to Montesquieu, is apt to result in an abuse of power. To give a man broad authority is to make him a tyrant. The only way, there-

fore, to prevent the misuse of power is to divide it among the different departments of government. Let the legislature have the authority to make laws, but not to enforce them. Give the executive the right to enforce laws, but not to make them. Empower the courts to interpret laws, but to do nothing more. Every department will find itself dependent on every other, and unable to crush the liberties of the people. "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner. Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor."[1]

This doctrine was very popular in America in the early days of independence. It strongly impressed the men who framed the national constitution and the first constitutions of the states. They set up three separate departments, each in large measure independent of the other two. But they did not carry the theory of the division of powers to its logical extreme. They made no attempt to put the governor, the legislature and the courts in three distinct airtight compartments, where they could by no possibility come in contact with one another. On the contrary, they gave the legislature considerable control over the executive department. A little later they extended the governor's influence over legislation. And so they built up an elaborate

[1] Montesquieu, *The Spirit of the Laws*, Book XI, Chap. VI. Present-day students of political theory reject Montesquieu's division of government into three branches—legislative, executive and judicial. Most of them agree that the functions of government are only two in number—determination of policy, or finding out what is to be done, and execution of policy, or doing what has been agreed upon. One function they call politics; the other, administration. See Frank J. Goodnow's *Politics and Administration.*

system of checks and balances—*checks,* because each branch was intended to act as a check upon the others, preventing any abuse of power; *balances,* because the whole scheme was supposed to be so nicely balanced that no one man or group of men could dominate it. They gave the legislature authority to make laws, and balanced that power against the governor's veto. They put most of the appointing power in the hands of the governor, and made his appointments contingent upon the approval of the senate. They created bicameral legislatures, so that each house might check the ill-considered action of the other. They set up courts with power to prevent the legislature and the governor from exceeding their authority.

All this naturally had a profound effect on city government. As the small urban communities of Revolutionary times grew to large cities they were furnished with charters modeled after the state constitutions. Checks and balances became the order of the day. Executive veto of proposed ordinances, councilmanic approval of executive appointments, two-chambered councils, popularly chosen department heads—these things were commonly regarded as fundamental. Governmental power was divided into small particles, and only a few particles assigned to each official. The underlying theory, of course, was that no man, however ignorant or corrupt he might be, could do very much wrong if he had no power to do much of anything. Council might pass unwise ordinances, but its folly would be counterbalanced by the sagacity of the mayor. Or perhaps the mayor might have evil designs on the public treasury, but he would be checkmated by council and by the independently elected city treasurer.

The result of this carefully planned system of checks and balances was magnificent inaction. With every official shackled lest he do wrong, no one was free to do right. Deadlocks, delays and lack of co-operation characterized city government. But the fathers were not at all disturbed. Like Jacobi they believed that "All governments are, to a certain extent, a treaty with the Devil." Government was likely to get beyond their control; it was an ever

present menace to their liberties. If they could lessen the danger by setting every department against every other department and making every official independent of every other, surely inaction would be a small price to pay. So they reasoned, and their reasoning was fairly well suited to the conditions of their day. In the years immediately following the Revolution the fear of oppression was great and the need for governmental action was slight. Nor is it surprising that the men who had fought against English misrule and the tyranny of an insane monarch should be inspired with a dread of all government. To them it was, as Thomas Paine said, a necessary evil. They proposed to set up no king, even though he be called president, governor or mayor, who should make himself all-powerful. They took care that no assembly, even though popularly chosen, should be able to seize the reins of state. And because little was expected of government in those days, the plan worked better than might have been expected. Many of the services which we have come to regard as an essential part of public administration were left to private initiative. Others were not performed by any person or agency, public or private. Police protection had not passed beyond the night watchman stage, and fire fighting was entirely a private matter. Education and charity were left to public-spirited citizens. Filtration of water was not even attempted. There was no traffic problem.

But today all this has been changed. The modern city watches over its citizens from birth to death. Even before birth it supplies expectant mothers with information about the care of themselves and of their babies. When the children are born it makes a record of the fact. It safeguards their health, testing milk supplies and supplying pure water to the homes. It prevents the spread of contagious diseases by means of quarantine and disinfection. It not only provides free education but requires all children to attend school after they reach a certain age. It examines their condition and points out physical defects to the parents. Later it trains them at the municipal university or secures work for them through the municipal employ-

ment bureau. Then it marries them, protects their property against thieves and fire, provides paved streets on which they may ride, furnishes them with municipal golf courses and municipal band concerts, and finally buries them in the public burying ground if no other will do this last service.

The old theory bears little relation to the new facts. The danger of oppression is much less, and the need for action much greater. The checks and balances designed to prevent undue haste must be swept away lest they hinder all activity. Gradually the change is being made. Bicameral councils have almost disappeared from the larger cities. The mayor's control over administration has been greatly strengthened. A number of cities have gone the whole distance and adopted the city manager plan, with its highly concentrated authority. But checks and balances are still an important part of American municipal government. As a rule the mayor may still veto proposed ordinances, and his more important appointments must usually be ratified by council. The civil service commission is generally intended to be a further check on his appointing power. The average citizen has never lost the idea that the only way to get good government is to tie every official hand and foot.

Short Terms and Rotation in Office

The fathers were convinced of the need for short terms. "Where annual elections end, there slavery begins," wrote John Adams in 1776, and many firmly believed it. The people elected mayors and councils for one- or two-year periods, and occasionally they added insult to injury by providing that the mayor might not be a candidate for reelection. Their purpose in providing short terms, of course, was to maintain close contact between the officials and the people. Mayors and councilmen must not be allowed to forget their responsibility to the public which had chosen them. Popular opinion must be given frequent opportunity to express itself at the polls.

In practice this theory worked very badly. It placed a

premium on inexperience, for it either forced public officials to run again for office almost before they had learned the nature of their duties, or else gave them notice in advance that after the next election their services would not be needed. By the latter part of the nineteenth century, although a number of cities had adopted the four-year term, some still retained annual elections, and two years had become the rule. Many city officials elected for two-year terms spent the first year getting familiar with their work and the second campaigning for re-election. In the meantime the voters paid for their mistakes. It was an expensive system, and now it is gradually being abandoned. The modern trend is toward a four-year term for the mayor, and also for the members of council. Most of the largest cities have already made the change, but many smaller communities still cling to their belief in frequent elections.

Hand in hand with the short-term idea went the theory of rotation in office. Jacksonian democracy was firmly seated in the saddle at the time when the cities first began to assume an important place in American life, and the chief article of faith in Jackson's creed was a belief in the wisdom and virtue of the common man. "Any man is good enough to hold any office," was frequently said by Jackson and his followers, and they proceeded to act on this theory. They chose public officials without the slightest regard for technical qualifications. Emphasis was placed instead on party regularity. And their attitude was logical enough. If every man possessed the capacity to fill any office, why should technical requirements be set up? To go a step further, why should any man remain in office for more than one term, when there were hundreds of other men in the community, equally as good and equally as competent, awaiting their turn? Surely the offices of government belonged to all citizens on equal terms, and ought not to be monopolized by a few. Moreover, office-holding was regarded as a means of political education. A man would make a better citizen, it was thought, for having served his city or his nation. Therefore everyone ought to be given a taste of public service, in so far as possible.

The Spoils System

This reasoning was used to justify the practice of making wholesale dismissals after every election. Unless a public officer happened to belong to the winning faction he could count with certainty on being asked to retire to private life shortly after election day. For more than half a century the spoils system continued virtually unquestioned as a part of American political life. The results may well be imagined. National, state and city governments were administered by persons whose sole qualification was their ability to control votes. Technical questions were decided by laymen. More than two thousand years ago Socrates said: "No one undertakes a trade he has not learned, even the meanest; yet everyone thinks himself sufficiently qualified for the hardest of all trades—that of government." His words might well have been applied to the United States during most of the nineteenth century.

An organized reform movement began in 1877 with the establishment of the Civil Service Reform Association, and six years later the merit system was definitely applied to the federal government. It has since been widely accepted by the states and cities. Nearly all the largest municipalities now select at least some of their employees under civil service regulations. But the reform is far from complete. Many cities with long established civil service commissions still ignore the spirit of the law, and find ways to reward party workers with public office. In some municipalities the merit system applies only to certain offices and certain departments. A considerable number of cities, chiefly the smaller ones, have never accepted the merit principle, and quite frankly make appointments on a political basis. William Marcy's famous utterance, "To the victor belong the spoils of the enemy," was recently paraphrased by the mayor of a New England city. "I believe in good government for everyone," he said, "but my friends get the gravy." One of the surest ways to raise the standards of municipal administration is to get the gravy out of government. The spoils system must give way to the merit

principle. The old theory that any man is good enough for any office must be buried along with the witch and the dodo.

Small Salaries

A doctrine long popular in the United States is that small salaries should be paid the officers and employees of government. In the England of pre-Revolutionary days the mayor and the councilmen were about the only persons in the service of the borough, and they received no compensation. It was thought that every man should welcome the privilege of serving his community, and that office holding, like virtue, was its own reward. Colonial America adopted the same idea, and carried it over into the early days of independence. At the beginning of the nineteenth century the mayors and councilmen of virtually all American cities served without pay. But soon afterward arose a widespread demand that the officers of government be paid. The poorer classes eagerly supported the movement, for it brought public office within their grasp. The well-to-do generally regarded it with disfavor. It meant that their virtual monopoly of office holding would be destroyed. The mechanic or the laborer could devote his time and energy to the service of the government quite as well as the man of leisure—if he were paid for doing it. The politicians welcomed the change, for they saw an opportunity to increase their patronage. Naturally enough, a compromise resulted. Public officials were paid, but not much. Often the amount of compensation was little more than nominal.

Since those days the technical expert has become an established and essential part of public administration. The activities of city government can no longer be entrusted safely to amateurs. Health work is in charge of public health experts, or ought to be. Water purification, street paving, sewage disposal—these things have become more or less exact sciences, making necessary the services of technicians. Obviously there is no question as to the desirability of paying these experts. Men and women highly trained for professional service cannot be expected

to direct the various phases of municipal administration unless the cities make it worth their while. Not only must salaries be paid, but those salaries must be adequate.

Unfortunately, in most American cities they are far from adequate. The small salary tradition has been carried over into the field of professional public administration. As a result the most competent persons are drawn into the world of business, where they earn three or four times as much as they could ever hope to get honestly in any city's employ. And the misfits, the incompetents, the ne'er-do-wells drift into the municipal service. Our cities get just about what they pay for—or perhaps a little less. They save a few thousand dollars on the payrolls each year, and lose hundreds of thousands because of work inefficiently done. Some day the people may learn how expensive that kind of economy really is. If they do, they will insist that municipal salaries be raised sufficiently to attract the better grade of men who now shun the municipal service.

The Long Ballot

The followers of Andrew Jackson looked upon popular election as a certain cure for most of the ills of government. They were firmly convinced of the wisdom and honesty of the people, and they reasoned that if the people elected directly all the officials of government, only wise and honest men would be chosen. During the thirties and forties of the nineteenth century they had an unusual opportunity to test their theory, for the number of city and state officials increased greatly as the functions of government multiplied. Virtually all the new offices were filled by election instead of by appointment. But for some reason popular election did not do all that had been claimed for it. Knaves and fools were chosen all too frequently. And so, after several decades of experimenting, a number of cities tried appointment by the mayor as a means of filling the less conspicuous offices.

Direct election has never really lost its hold on the popular imagination, however. Most people probably still feel that the ends of democracy are best served when all public

officers are chosen by the public. City charters are commonly based on this theory. Coroners, sheriffs, magistrates, recorders of deeds, registrars of wills, treasurers, city clerks, prosecuting attorneys—these are just a few of the officials commonly elected to office. A ballot presented to the voters of Chicago a few years ago contained the names of two hundred and sixty-seven men running for fifty-three different offices—and presidential electors were not included in the list! In Philadelphia seventy-one local officials are chosen at large by the people of the city. More than six thousand others are elected by wards or districts. San Francisco gives its voters a comparatively simple task; there only about forty local offices are filled by direct popular election. These cities are not unique; they represent the rank and file of American municipalities. Everywhere the ballots are crowded with the names of candidates for large numbers of offices—local, state and national. Not infrequently a few proposed laws or suggested constitutional changes are added for good measure.

The plain truth of the matter is that the average voter is overburdened and well-nigh overwhelmed. How can he possibly hope to make a rational choice among a vast number of candidates for half a hundred different offices? How can he be sure that he is selecting the best man for surrogate, for supervisor, for auditor? He knows little or nothing about most of the men whose names appear on the ballot; probably he has never even heard of them. His choices are virtually certain to be blind guesses. Some time ago a woman well known in fashionable circles declared that in marking her ballot she always followed two rules. First, she put crosses opposite the names of all women candidates. Then, if there were still offices unmarked, she voted for the man at the bottom of each list, because she felt sorry for him. The average citizen would scoff at such an irrational method of choosing public officers, but he does little better. He may vote intelligently for the men at the head of the ticket—governor, mayor, councilman. After that, however, he is entirely at sea. The other names mean nothing to him. He has no ready way of learning the qualifications of the

different candidates for all the minor offices, and he cannot reasonably be expected to spend all his spare hours investigating the matter. So he does the obvious thing; he votes a straight ticket, trusting that his party's slate includes all the best men.

When most people cast their ballots, therefore, they do not really express their own choice at all, except with regard to a few of the outstanding candidates. At a matter of fact, they have no choice. They express instead the wishes of the party leaders. Unconsciously they do the bidding of the boss. State constitutions and city charters declare that coroners, magistrates and all the rest of the small fry shall be selected by the people, but they never are. They are appointed by the man who controls the dominant party organization, and his choice is formally ratified by the people at the polls.

The question might well be asked: If the people have no real voice in the selection of minor officials, why continue to go through the motions of electing them? Why not provide for their appointment by the governor or the mayor? The answer commonly given is that such an arrangement would violate the first principles of democracy. It would take from the people one of their fundamental rights—the right to control directly the offices of government. It would place too much power in the hands of the executive. It would build up a powerful bureaucracy, unresponsive to public opinion. The men appointed to office would be out of touch with popular sentiment.

These stock arguments are rapidly losing much of their force, however. It is becoming increasingly clear that the surest way to fortify the stronghold of the political machine in every city is to provide for the popular election of scores of officials. Minor office holders will be appointed and not elected, regardless of constitutions. If we give the appointing power to the mayor it will be exercised by someone responsible to the people. He can be held to account for his actions. But if we insist upon retaining the mummery of popular election we may be quite certain that the appointing power will be exercised by the boss and his henchmen,

responsible to no one and never called to account. The long ballot, containing the names of candidates for all sorts of minor positions in the public service, has been retained by many cities in the name of democracy. Actually it prevents the very thing it is intended to accomplish. For any scheme of government, regardless of theory, which takes control from the people and vests it in the hands of an irresponsible clique is not democracy, but the worst kind of oligarchy.

The Short Ballot Movement

In 1909 a little group of men interested in better government formed an organization to further the short ballot movement. They advocated a drastic reduction in the number of offices to be filled by popular election, so that the average citizen might have a reasonable chance to become familiar with the qualifications of the candidates for whom he voted. Their suggestion was eagerly endorsed by the political scientists of the country, but it met with less favor among the professional politicians, who loudly denounced the plan as undemocratic, un-American, and an invention of the devil. Despite determined opposition, however, the short ballot principle has made rapid strides. Quite a number of the larger cities and hundreds of smaller communities have accepted it. It has played a part in nearly every recent campaign for charter revision.

According to the National Short Ballot Organization, which is now merged with the National Municipal League, "Only those offices should be elective which are important enough to attract and deserve public interest."[2] It is not difficult to determine which offices belong in this category. A few men in the government—the governor, the mayor, state legislators, city councilmen—are constantly in the spotlight by virtue of the positions they hold. They are politicians in the strict sense of the word, political leaders who determine the policies of state or city. All the other men and women on the government payroll, from department heads to clerks, are engaged in the task of carrying out the policies formulated by others. They are not sup-

[2] Childs, Richard S., *Short Ballot Principles*, Preface.

posed to represent the people; their job is to see that the routine work of administration proceeds efficiently and without interruption. Here, then, is a natural and eminently satisfactory dividing line. On the one side are the people's representatives, pledged to carry out the popular will. Certainly they must be elected. On the other side are the technicians, the experts, the administrators. They should be appointed, for the voters cannot properly be expected to know their qualifications. Chief Justice Ryan summed up the matter in a single sentence: "Where you want skill you must appoint; where you want representation, elect." City engineers, police chiefs, health officers have no part in determining policy. Their work requires technical skill, and they should not be compelled to bid for popular favor. After all, there are only two ways of paving a street or enforcing quarantine regulations—a right and a wrong way; but not a Democratic and a Republican way.

Bad city government in the United States has been largely the result of unsound theory. Checks and balances, short terms, rotation in office, small salaries and the long ballot have combined to produce inefficient and dishonest administration such as would not be tolerated in any of the more progressive nations of Europe. Until recently American city dwellers have accepted the situation with a shrug of the shoulders. They have regarded the selection of incompetents to public office as inevitable, and have even watched the systematic robbery of the public treasury with comparative indifference. But the last thirty years have witnessed a civic renaissance. Public-spirited men and women have taken a new interest in government, and have done a great deal to raise the standards of municipal administration. In many cities the professional politicians have been forced to accept changes designed to weaken their strangle hold on municipal affairs. Many of these reforms, of course, have been ineffective.

A New Theory Is Needed

If the new movement is to accomplish results it must be based on sound theory. It must discard at once such threadbare traditions as checks and balances, the long ballot

and the other articles of faith in the Jacksonian creed. In their place it must accept the newer doctrines which have already proved their value—concentration of authority, longer terms, the merit system, adequate salaries, the short ballot. Any attempt to raise municipal standards without thoroughly overhauling the theory of city government is foredoomed to failure.

Concentration of authority heads the list of needed reforms. The average American city has been without a responsible head too long. It has a mayor, of course, but often he is the head of the government in name only. He shares his administrative authority with a dozen or more officials who feel no obligation to co-operate with him, since they also have been elected. His appointing power is severely restricted by the requirement of councilmanic approval. He is unable to remove many officials who are supposed to be his agents in enforcing the laws. To a large extent he must rely on persons who are entirely beyond his control.

Authority has been so carefully divided that it is virtually impossible to fix the blame when the city's tasks are improperly done. Almost any citizen can tell whether the streets are in proper repair by riding over them. He can learn whether the water and milk supplies are reasonably pure by a glance at the typhoid rate. But he cannot ascertain so readily who is responsible for rutty streets or typhoid epidemics. His first thought, naturally enough, is to blame the mayor, because the mayor symbolizes the city government. In all probability he never will know who is really at fault. The opportunities for shifting the blame are endless.

Divided responsibility will continue until authority is concentrated, for authority and responsibility inevitably go hand in hand. The mayor cannot fairly be censured for the mistakes of his subordinates unless he can control their actions. And he cannot be expected to produce results unless he has power to carry out his plans. One person should have charge of all the administrative agencies of a city. His title may be mayor or manager, but complete

authority should be vested in him. He should have power, under civil service regulations, to fill all administrative offices. He should be free to dismiss unsatisfactory subordinates. And neither for his appointments nor his removals should the consent of council be required. Under such a plan the executive would no longer be hampered at every turn, and it would then be possible to apportion praise and blame fairly.

Municipal government in the United States has strayed far from the theory of the men who framed the earlier city charters. Their plan to reduce the likelihood of tyranny by scattering authority among a large number of officials has failed completely, and has long since been abandoned in practice. Of course, the form still survives. In most American cities the mayor still heads an administrative service he cannot control, and the council passes ordinances which must run the gauntlet of the mayor's veto. On paper the government is very nearly as decentralized as ever. But actually there is a high degree of centralization. Mayors, councilmen, department heads—everyone in the city government from executive to elevator operator—are responsible to one man. Everyone owes allegiance to the city boss, the head of the local political machine.

In a rough way, therefore, the boss supplies the leadership which the charter prohibits. He co-ordinates the various branches of the city government and compels them to work together. But for him it is difficult to see how most city administrations could function at all. In all probability they would stagnate. Of course, the boss is not primarily an altruist. He does not build up a powerful political machine for the purpose of improving municipal efficiency. His chief concern is the strengthening of his party organization, and not the development of the city. He gives the people consolidated government, but he collects a large fee for his services.

Those who would eliminate the boss had best begin by making him unnecessary. Among other things they ought to provide by law for a municipal administrative organization with a responsible head. The mayor or the manager

should be given ample authority, and told to produce results. Then he cannot escape accountability. For whether the voters like it or not, city government will never be headless. If the charter makes no provision for leadership, someone will inevitably assume the rôle of boss and correct the deficiency. Apparently the people must choose between a responsible executive and an irresponsible dictator. Of course, mere concentration of authority is not enough to sweep the boss from power. Highly organized political machines cannot be dissolved by merely waving the legislative wand. The carefully calculated philanthropy of the boss and his henchmen will continue to secure popular support for their schemes.[3] But the creation of a strong executive tends to make the boss superfluous—a sort of vermiform appendix of the body politic. Some day a major operation may remove him altogether.

The short term philosophy of the early nineteenth century is less popular today. The trend of the times is toward longer terms, though the two-year period is still common. Eventually all city offices filled by popular vote should be put on a four year basis,[4] so that the office holders will have a fair chance to become familiar with their work and to demonstrate their ability before they find it necessary to campaign for re-election. The danger that some despot will seize the reins of government is no longer very great, so the emphasis may safely be placed on experience.

Of course, the large majority of persons in the municipal service should be appointed, and should continue to hold office during good behavior. No one seriously contends that policemen or stenographers should be chosen by the voters. Candidates for the office of street sweeper never appear on the ballot. Yet every year hundreds of offices too insignificant to make any popular appeal are filled by popular election. Constables, school visitors, clerks of court, wardens, election officials are just a few of the many. Ballots commonly contain the names of candi-

[3] See pp. 340 and 346.

[4] This does not include judges. Members of the judiciary are not policy-determining officers, and therefore they should not be elected.

dates for technical positions—surveyor, engineer, director of public health. And the people are asked to pass upon the qualifications of the men who offer themselves as technical experts. The system is manifestly absurd. Technicians and clerks must be chosen under civil service regulations, and they must be kept at their posts regardless of political changes.

Students of municipal administration agree that adequate salaries must be paid. Skilled engineers, highly trained administrators, health experts, will never enter the municipal service unless the cities meet the competition of private industry. So in the last analysis the meaning of "adequate" as applied to municipal salaries must be determined by the salary scale of the commercial world. In all probability no city has yet reached this ideal. New York pays its corporation counsel fifteen thousand dollars a year, and Tulsa's superintendent of schools receives nearly fourteen thousand. The salary of the city manager of Cleveland is twenty-five thousand dollars. But these figures are not at all indicative of the general level of municipal salaries. Most cities pay their technicians far less than the market rate, and must therefore be satisfied with men of inferior calibre. Oddly enough, the positions at the bottom of the municipal service usually pay fairly well. In most instances the fifteen or eighteen hundred dollar a year man finds it more profitable to work for the city than for some private concern. The range of municipal salaries is therefore surprisingly narrow. The city typists, clerks, laborers, mechanics are well paid—too well paid, according to some critics; while city department heads are given ridiculously low salaries. To the average voter this plan seems quite satisfactory. He knows something of the starvation wages paid in industry, and he believes that the city should give a living wage to everyone in its employ. But he is unwilling to admit that the administrators in charge of municipal activities should receive salaries which to him seem stupendous. He cannot comprehend that any man is actually worth fifty or one hundred thousand dollars a year. So American cities save a little by paying their

technicians smaller salaries, and lose a great deal by trusting their affairs to second-rate men. They are dime wise and dollar foolish.

The short ballot must of course be included in the list of needed reforms. Many persons would place it first. But concentration of authority has already been mentioned, and the short ballot is virtually implied in any scheme of administrative consolidation. If one person—mayor or manager—is placed in full charge of a city's administrative affairs, with power to pick his own subordinates under civil service regulations, the short ballot at once becomes a reality. Only a few offices remain to be filled by popular election—members of council, judges, and the chief executive, whatever his title. Judges should at once be put in the appointive class. They have nothing to do with determining policy, and the public is not capable of passing upon their qualifications. It may be that the chief executive ought also to be appointed. The point is moot, and will be discussed later.[5] At any rate, the ballot should be shortened until it includes only those officers who determine municipal policy. And the only persons on the municipal payroll whose primary duty is indisputably the formulation of policy are the members of the local legislative body —council, commission or whatever it may be called. No ballot can ever be made so short as to exclude them.

The Keynote of the New Theory

City government of the future, therefore, must be based on a new political theory if it is to avoid the mistakes of the past. The keynote of the new theory may be summed up in three words—concentration, simplicity, confidence. Concentration of authority must come first, because there is no other way to fix responsibility. The structure of government must be simplified so that it can be understood with less difficulty by the average voter. Greater confidence must be placed in the men elected to office. They must be trusted with more power and for longer periods. Any government built on distrust and suspicion is certain

[5] See Chap. XI.

to fall short of its possibilities. Most cities will find drastic changes necessary. The doctrine of checks and balances must be definitely discarded. Terms of office must be lengthened, and salaries increased. The merit plan must displace the spoils system. Only policy-determining officials should be elected, and the entire administrative service should be placed under the control of one man.

As yet these doctrines have secured no widespread acceptance in the cities of the United States. Only a few municipalities have made any serious attempt to put them into effect. Everywhere adherents of the old order are found, ready to challenge the merits of the new. "What will happen," they ask, "if we concentrate all administrative authority in one official—a mayor, for example—giving him authority to make all appointments and fixing his term at four years, only to find that we have elected a fool or a knave? How can we get rid of such an undesirable person quickly and easily? How can we prevent him from doing a great deal of harm before his long term has expired?"

The answer is obvious. There is no guarantee that incompetents or imbeciles will not be elected. There is no way of removing them quickly and easily once they have been chosen.[6] They may be impeached, of course, but impeachment proceedings are neither quick nor easy. And there is no certainty that the city will escape the evil effect of their mistakes. But what theory brings with it an unconditional guarantee of good government? The old doctrines have failed miserably. In fact, the people so frequently elect incompetents to rule over them and so often choose thieves to guard the public treasury that even the prospect of continuing the practice ought to occasion no great alarm. There is reason to believe, however, that greater concentration, simplicity and confidence would materially improve the calibre of the men elected to public office. The people would surely be able to choose more in-

[6] A number of cities have adopted the recall, but it is not at all certain that the recall conforms to sound theory. See Chap. XIV.

telligently; blind voting would be materially reduced. Opportunities for shifting the blame would be far less numerous. Most important of all, results could be accomplished without endless irritating delays. Under the old plan of diffused power and the long ballot, as still found to a greater or less extent in the average city, the honest, intelligent administrator chosen to public office finds himself so handicapped that he can accomplish virtually nothing. He must try to secure the co-operation of scores of other officials who have no obligation and no desire to work with him. After a time he abandons his attempt to raise municipal standards. The check and balance system is too powerful for him. It compels inaction. To eliminate the check and balance system is to make action possible. Mistakes will sometimes be made, of course, and at times they may prove costly. But every city must choose between the possibility of error and the certainty of stagnation. If it is wise it will exercise care in selecting officials, and then place complete confidence in them.

An analogy may be of some value. Every vessel afloat, from the smallest fishing smack to the largest ocean liner, is under the command of one man. That man has complete authority and complete responsibility for a limited period—the duration of the voyage. At the end of the journey he must answer to the board of directors of the controlling company. Should he make any errors he knows that he will be held liable. *But during the voyage his authority is unlimited.* The passengers would not have it otherwise. They make no pretense at passing upon the captain's qualifications. They know whether the trip is made smoothly and without mishap; they can readily tell whether the vessel arrives on time. But the technique of navigation means nothing to them. They do not presume to settle disputes between the captain and the chief engineer as to proper speed or direction. In the realm of city government, however, the lessons of the sea are forgotten. The ship of state is bravely launched with a whole company of independent officials in the engine room and a dozen

men at the helm. When council and the mayor disagree the matter is referred to the voters, and the average citizen has not the slightest hesitancy in expressing his opinion about matters quite as technical as the navigation of an ocean greyhound.

One thing must be made clear; the short ballot, the merit system and the other changes advocated in these pages are no short-cut to a civic millennium. They offer no sure cure for the political ills of American cities. After all, theories are only the tools with which men work. A skilled workman can do better work with good tools. Even a tyro can give a better account of himself if his tools are nicely adjusted to his task. But a satisfactory product requires the combination of trained men and proper tools. Good government must have capable officials to practice sound theories. The cities of the United States must still face the problem of securing trained administrators after they have remodeled their charters and amended their ordinances. The new political theories are valuable largely because they make the public service more attractive to honest men of outstanding ability.

Many of the following pages of this volume deal with different types of municipal organization—mayor-council government, government by commission, the city manager plan. The purpose of this chapter is to set up standards by which these various forms of city government may be judged. It would be folly to attempt to evaluate them without first finding some measure of value. Their merits cannot fairly be compared without an understanding of the principles on which they are based. Fortunately, the fundamental principles of sound municipal organization are few and easily remembered. Concentration, simplicity, confidence—these are the foundations of good government.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, pp. 204-12, 256-9.

Childs, Richard S., *Short Ballot Principles,* Boston, 1911.

Goodnow, Frank J., *Politics and Administration,* New York, 1900.

Illinois Constitutional Convention, Bulletin No. 5, *The Short Ballot,* Springfield, Ill., 1920.

Pidgeon, M. E. and Heinrich, E. J., *Short Ballot Proposal in Virginia,* Richmond, 1926.

Tanger, Jacob, "The Check and Balance System," *Annals of the American Academy of Political and Social Science,* Vol. LXIV, March, 1916.

CHAPTER VIII

THE MAYOR

THE history of American city government prior to 1900 is largely the story of the rising power of the mayor. In the early days of our independence the mayor was merely the presiding officer of council, possessing little independent authority; by the close of the nineteenth century he had become a very influential person. He supervised municipal administration, though he did not always control it. He played an important part in shaping local legislation, and his powers of appointment and removal were broad. In name, and to some extent in fact, he was the head of the city government. More than any other person he could claim to represent all the people of the city. Unlike the members of council, his viewpoint and his interests extended beyond the boundaries of a single ward.

Naturally enough, therefore, the municipal reformers of forty years ago pinned their faith on the mayor. Time and again they had seen the battle of mayor versus council, with the mayor usually protecting the public interest against the attacks of ignorant and corrupt councilmen. All too often they had witnessed the spectacle of a competent mayor handicapped and embarrassed by elected department heads. And they came to the conclusion that the solution of the municipal problem was to give the mayor complete control over administration, making him a sort of benevolent despot. Not that all mayors were benevolent in the nineties of the last century. Far from it. Many of them were not even honest. But as a class they better represented public opinion and more frequently opposed the forces of corruption than the members of council and the other city officials. Usually they were men of higher calibre.

It is not at all surprising that the mayors of American cities were usually on a higher plane, both intellectually and morally, than their colleagues in the municipal service. For one thing, the office was sufficiently prominent to attract men of ability. An honest independent, well known and respected, might be induced by his independent friends to accept the reform party's nomination for mayor. But what prominent business man would sacrifice his private affairs to run for coronor? What leading attorney would give up his practice in exchange for the prospect of becoming a magistrate? Of necessity the reformers concentrated on the office of mayor. They hoped that the election of a good chief executive would insure good government—a hope too seldom fulfilled. They exhorted the people to choose an independent mayor and usher in a new era of civic righteousness. After the people had several times tried the experiment of electing an independent mayor, only to find him powerless because of hostile subordinates and a boss-controlled council, they began to lose interest in the whole matter. And the reformers were confirmed in their belief that the mayor's position must be strengthened.

With the turn of the century came a revolution in the theory and practice of city government. Galveston adopted a form of government—the commission type—which reduced the mayor to a position of minor importance. He became merely the chairman of a board of five, possessing only the same voting power as his fellow commissioners and charged with the administration of but one of the city's departments. The new idea proved immensely popular. By 1914 four hundred cities and towns had followed Galveston's example. Then came the city manager plan, which took administrative control completely out of the hands of the mayor and made him nothing more than a presiding officer with some social duties, as he had been in colonial days. A few manager cities have even abolished the office of mayor altogether.

These new forms of government are favorably regarded. The manager plan in particular is gaining new converts

every year. Some day it may become the typical form of American municipal organization. But as yet it has acquired no such widespread popularity. The large majority of cities in the United States still trust their affairs to a mayor and council as they have always done. In the larger cities especially mayor-council government retains its hold. There are a dozen American municipalities with populations of half a million or more,[1] and only two of them—Cleveland and Buffalo—have tried the newer forms. In 1927 the people of Buffalo tired of their experiment and returned to the mayor-council fold.

The Weak Mayor Plan

Government by mayor and council, as it has developed in this country, takes two widely divergent forms. One is the weak mayor type, so called because the mayor's powers are few and carefully restricted. Under this plan most of the administrative departments are headed by boards or commissioners elected by the people or chosen by council. The mayor makes but few important appointments, and those which are entrusted to him must be ratified by council. Almost invariably he possesses the veto power, but by an extraordinary majority, usually two-thirds, council may override his veto. The civil service commission, if any, is selected by council. Usually the mayor is directed to supervise the conduct of all the administrative departments and to see that the laws and ordinances are properly enforced; but since he has virtually no control over the city's administration, and no authority to carry out his plans, the power of supervision means next to nothing. He may suggest, and the park board or the street commissioner may disregard his suggestions. Why, indeed, should they accept his advice? They can afford to be quite independent, for they owe him nothing. They hold office at the pleasure of council, or perhaps until the expiration of the terms for which they have been elected.

Providence furnishes a good example of the weak mayor type of city government. Most of the administrative work

[1] According to 1920 census figures.

is under the control of boards selected by council. There are park commissioners, hospital commissioners, fire commissioners, all chosen by council and responsible to its committees. The city treasurer, harbor master, director of public aid, and school commission are elected by direct vote of the people. Although the mayor is charged with the duty of enforcing the laws, he has only a limited control over the city's principal law enforcement officer—the chief of police. In fact, he selects directly but one important official—the commissioner of public works, and even this appointment must be approved by the Board of Aldermen. The mayor's power of removal is narrowly restricted, and his veto may be overcome by a three-fifths vote of council.

In a number of other large cities also the government is decentralized to a considerable extent. The school, library and park affairs of Minneapolis are under the control of elective boards. The treasurer, controller and municipal judges are chosen by direct popular vote. In San Francisco [2] the people elect the district attorney, coroner, sheriff, city attorney, treasurer, auditor, tax collector, county clerk, public administrator, eighteen supervisors and a number of municipal judges. The government of Bridgeport is so organized that the mayor has very little control over the city's affairs.

The Strong Mayor Plan

Diametrically opposed to the theory of decentralization is the strong mayor plan. Under this type of organization the mayor completely controls administrative matters. He appoints department heads without consulting council, and removes them at pleasure. The rank and file of the city employees are appointed in his name, but usually under civil service regulations. He has broad powers in connection with the municipal budget. He is in fact the head of the city. The only municipal officials chosen by popular vote are the mayor, councilmen, and possibly the members of the school board and the controller or auditor. In theory, at least, the school officials ought also to be ap-

[2] San Francisco is a combined city and county.

pointed by the mayor, but some practical arguments can be advanced in favor of their selection by the people.[3]

New York, Boston, Detroit and a few other cities have adopted the strong mayor plan. In New York, for example, the mayor's control over administration is virtually absolute. He appoints nearly all the heads of departments, and the confirmation of council is not needed. In most cases he may remove them at any time. A three-fourths vote of council is necessary to override his veto of appropriation or loan measures. He is ex-officio chairman of the board of estimate and apportionment, which frames the municipal budget, grants franchises, and settles many important matters of policy.

In the matter of strong mayor versus weak mayor most American cities defy accurate classification. Certainly very few belong to the strong mayor type. Their charters still provide for the election of many administrative officials and the selection by council of some others. The mayor is commonly denied adequate authority. Yet it seems scarcely fair to put them in the weak mayor list. Many have changed their charters in recent years so as to permit a degree of concentration. They have increased considerably the mayor's appointing power, but at the same time they have retained the requirement of confirmation by council. Important administrative officials are still chosen at the polls. Take Philadelphia as an example. Its government is not of the weak mayor variety, for the mayor appoints eight department heads, selects the members of several boards and commissions, and dismisses them at pleasure. He frames each year a budget which is submitted to council. On the other hand, Philadelphia cannot be classed as a strong mayor city. All the mayor's appointments must be approved by council. The budget which he submits may be torn to shreds. There are eleven important administrative positions and fifty-eight judicial offices filled by popular election.[4] Philadelphia's govern-

[3] See pp. 224-5.

[4] Many of these are county offices, for Philadelphia, like San Francisco, is both a city and a county. Unlike San Francisco, however, city and county governments have not been combined.

ment is a hybrid. It is neither strong mayor nor weak mayor, but something between the two. In that respect it resembles the government of the average municipality. Fifty or sixty years ago virtually all our cities were of the weak mayor type, but since that time most of them have adopted certain features of the strong mayor plan. They have given the mayor partial but not complete control over administration. They have shortened their ballots, but not enough. Today most American city governments closely resemble the weak mayor type, but with a few strong mayor characteristics grafted on. That type of grafting has not proved popular with the professional politicians.

In favor of the weak mayor plan very few sound arguments can be found. It is said by some that centralization of authority in one person is undesirable and dangerous. Emphasis is laid on the possibility that the mayor will become an autocrat, unresponsive to public opinion and secure in office until the end of his term. There is no need to refute these contentions in detail. Our experience with decentralized administration during the last hundred years [5] has made sufficiently clear the need for concentrated responsibility. A number of valid arguments can be advanced, however, against the weak mayor system. For one thing, it perpetuates the long ballot, with its tendency to weaken popular control and stifle popular interest. Then, too, administrative responsibility is scattered, which is only another way of saying that it is non-existent. The government is so complex as to baffle all but the experts. Eventually the weak mayor type of city government will probably die a natural death. Today it finds very few converts among American cities. But it still makes a strong appeal to the popular imagination.

Most of the defects of weak mayor government are sound reasons for the adoption of the strong mayor plan. Under the strong mayor type of organization the short ballot takes the place of the long. Authority is concentrated, and not diffused. A responsible executive is placed in charge of

[5] See Chap. VII.

administrative matters. Government is made intelligible to the average citizen. Opportunities for shifting the blame are virtually eliminated. Council is given just one task—policy determining, or legislation—and is not permitted to interfere with the technical details of administration. Concentration, simplicity and confidence, principles of good government, are all embodied in the strong mayor plan.

Yet the scheme has certain weaknesses which cannot be ignored. Least important, though most emphasized, is the possibility that the mayor will abuse his power. When a new charter of the strong mayor type was proposed for Cleveland in 1913 a "Committee of Citizens" issued a pamphlet denouncing the plan because it made the mayor virtually an autocrat. "All the power to enforce . . . police and health regulations is conferred upon the mayor. He may wink at their non-enforcement for the sake of the political support of a powerful class, as has been done in the case of saloon regulations, or he may exercise political coercion by causing their temporary enforcement in individual cases, as has been done. This power, taken in conjunction with the complete control of expenditures amounting to $11,000,000 annually and that obtained through his authority over a constantly increasing army of public employees, makes of the mayor an official so powerful and autocratic that his removal either by election or recall would be extremely difficult. Add to this the fact that the only information the people are to be given concerning the official acts of the mayor and his subordinates is that which the mayor himself sees fit to furnish, and you have all the materials for an invincible municipal machine the equal of which has never been known." There is no need to discuss the validity of this argument. The experience of the last hundred years has proved that it is far less dangerous to concentrate authority in the hands of one responsible official than to scatter it among forty or fifty underlings.

It is not so clear, however, that the city's chief executive should be elected. The very fact that the mayor is popularly chosen makes him inevitably a politician. He

must depend on the political machine to produce the votes that will put him into office, and to reward him later for his party loyalty by making him governor or congressman. He spends his time advocating or opposing policies, instead of guiding the details of municipal administration. Usually he is not a trained administrator, for able technicians are seldom drawn into the public service by way of the ballot. He is very apt, therefore, to conceal his lack of administrative skill behind a smoke-screen of debate about municipal ownership or the five cent fare.

Because the executive in city government ought properly to have so much to do with the technical details of adminstration—police department organization, methods of street paving, and the like—and so little to do with deciding political issues, many careful students urge that he should be appointed by council. City manager government is based on this philosophy. Discussion of the manager plan is reserved for another chapter,[6] however, so the relative merits of elected and appointed executives may be considered in greater detail at that point.

American Mayors

American mayors are everywhere elected by direct vote of the people.[7] This is in sharp contrast with European practice. In England the mayor is chosen by the councilmen and aldermen. The French *maire* is likewise selected by the municipal council. Since the World War some German cities have put the choice of the *Bürgermeister* directly in the hands of the people, but the large majority of them still follow the traditional plan of councilmanic appointment.[8] Even in the United States mayors have not always

[6] Chap. XI.

[7] The officials who bear the title of mayor under the commission and manager forms of government have little in common with the mayors who have guided the destinies of American cities during the last hundred years. No attempt is made to include them in the description of American mayors in the remaining pages of this chapter.

[8] "German Cities Since the Revolution of 1918," by Dr. Mitzlaff. Supplement to the *National Municipal Review*, Nov., 1926, Vol. XV, No. 11.

been elected. The early charters gave to council the power of selecting the mayor, and it was not until 1822 that Boston led the larger cities by providing for a popularly chosen executive.[9] In some respects the city manager plan, with its appointed executive, is a return to the original form of municipal organization.

The mayor's legal qualifications vary widely from city to city. Always he must be a qualified voter, and occasionally he must be a taxpayer. Sometimes a minimum age limit is fixed—most commonly twenty-five or thirty years. Often there is a minimum residence requirement of from three to five years. There are other qualifications also, not mentioned in charters or ordinances. To be elected mayor of an average American municipality a man must usually be an important cog in the dominant political machine. He must have demonstrated time and again his ability and willingness to serve the organization. He must be acceptable to a wide variety of interests, for many groups have a veto on the selection of the mayor. The utility interests, business, labor must all look with favor —or at least without disfavor—upon his candidacy. He must be all things to all men. And above all else, he must have avoided making powerful political enemies. One reason why inconspicuous politicians are so frequently chosen mayor is that they have never had opportunity to offend anyone of importance. More distinguished candidates might attract more friends, but they would certainly have more foes. And the organization believes, not without reason, that they might be harder to control. There are some outstanding mayors, of course. The names of Newton D. Baker, John Purroy Mitchel, Rudolph Blankenburg, Brand Whitlock and a score of other distinguished municipal executives will not soon be forgotten. But these men are conspicuous in part because they stand out above the welter of mediocrity.

In more than half of the larger cities—those with populations of fifty thousand or more—the mayor serves for four years. The great metropolitan centers especially favor

[9] See p. 58.

the four-year term. Twenty cities in the fifty thousand class fix the mayor's term at three years, however, and a much larger number use the two-year term. Annual election of the mayor, once so common, is now found in but a few cities. The smaller communities still display a fondness for the two-year period. The trend of the last half century has been steadily toward longer terms. New charters frequently increase the length of the mayor's term, but virtually never shorten it.

The range of mayors' salaries is from twenty-five thousand dollars to nothing. Within a single state these variations occur. New York tops the list of all American cities. Geneva pays its mayor one thousand dollars a year, and the mayor of Ithaca receives no compensation. In the larger cities the mayor is expected to devote his entire attention to the duties of his office, and his salary is large enough to make him financially independent. Most of the smaller communities, however, demand but a portion of his time and pay him accordingly. Of course, the mayor's salary is often a very poor indication of his possibilities for profit. If he is sufficiently unscrupulous he may use his power and prestige as chief executive to fatten his own bank account. Every day opportunities occur. Utility operators desire special privileges from the city, and will pay well to get them. A street railway company, for example, can easily afford to transfer a few hundred shares of its stock to the mayor and his friends if it receives in exchange a franchise drafted by its own attorneys, and presented to the public as the handiwork of city officials. Then there is the tribute from the underworld. Bootleggers, keepers of brothels, criminals of every sort will pay a "reasonable" price for protection. Since the mayor usually appoints the chief of police, and through him controls the entire police department, he is able to determine where and at what times the law shall be enforced. Contractors doing business with the city know the importance of an influential friend at city hall, so they can be counted on for occasional contributions. Land speculation often proves very profitable. As soon as it is decided to cut through a

new street or build a new city hall the mayor knows all about the matter, and he is in a position to buy land cheaply and sell it at a neat profit. There are scores of other ways of making private gains from public office. Most of them are illegal; all are unethical. But many a mayor with a lust for wealth has left office several hundred thousand dollars richer—on a salary of seven or eight thousand.

Powers of the Mayor

The powers of the mayor may be classified conveniently under three main needs: legislative, judicial, administrative. Although he is the city's chief executive, charged primarily with the enforcement of the laws, he plays a very important part in shaping proposed legislation. In every city he is directed to make recommendations to council—"suggestions for the protection and improvement of the city's government and finances," as the charter framers often put it. There is nothing except public opinion to prevent council from ignoring his recommendations and following its own course. But a popular mayor with a reputation for fair dealing can often rouse popular sentiment to such a point that dallying councilmen will hasten to fall into line. If he has the support of the newspapers they will print his messages in full and lend their editorial columns to his cause. His power to recommend may mean much or little, depending on the importance of the issue involved, the state of public opinion, the attitude of the papers—but, most of all, the mayor himself. A courageous mayor with a vital message may become the city's leader in the fight for good government. Unfortunately, courage is not usually the stuff of which mayors are made.

The power to veto proposed ordinances is everywhere given to the mayor. After a bill has been passed by council it goes to the mayor for his approval or rejection. Should he disapprove, he returns it to council with his objections, and unless it is then repassed by an extraordinary majority it fails to become law. The majority needed to override the mayor's veto varies from city to city; usually it is two-thirds of those present. But it may be three-fifths,

as in Philadelphia, or three-fourths, as in Baltimore. In Boston the mayor's veto is absolute. During the last few decades a great many cities, including most of the metropolitan centers, have extended the power of the mayor by authorizing him to veto specific items in appropriation bills. Formerly he was required to accept or reject proposed ordinances in their entirety, and members of council took advantage of that fact by attaching one or more questionable items to every important appropriation measure. The mayor was frequently faced, therefore, with the alternative of taking the good along with the bad or of vetoing a necessary ordinance because of a few objectionable features. Rather than run the risk of tying up the whole administration for lack of funds he would usually make a wry face and affix his signature. Many an unwise appropriation became law as a "rider" to some measure of greater consequence. Today each item stands a reasonable chance of being considered on its merits. The mayor is no longer told that he must take all or nothing.

In the early days of our municipal history the mayor usually presided over council.[10] But the political thought of the early nineteenth century demanded a sharp division of powers, and as he became the administrative head of the city he ceased to take part in council's activities. In nearly every American city of the present day council chooses its own officers. The mayor no longer presides. There are only a few exceptions—mostly small communities and, oddly enough, the nation's two largest cities.[11] The mayor of New York is the presiding officer of the board of estimate and apportionment, the upper house of the city's bicameral council. He casts three of the board's sixteen votes, and the prestige of his office aids him further in guiding proposed legislation. Chicago's mayor, who presides over council meetings, is given no vote except in case of a tie—and a tie seldom occurs. He may introduce bills only by petition to the clerk, as might any citizen. But the mere fact that he is always at hand, and that all debates

[10] See p. 54.

[11] In San Francisco, also, the mayor presides over council.

must be conducted in his presence and under his chairmanship, greatly strengthens his influence.

The judicial powers of the mayor are no longer of any great practical importance. The colonial mayor devoted much of his time to judicial matters. He was a justice of the peace, presiding officer of the borough court, and often a member of the county tribunal.[12] But the development of an independent court system and the multiplication of the mayor's administrative duties have combined to restrict his judicial authority. Usually he is a magistrate, and in some of the smaller cities he still exercises minor civil and criminal jurisdiction. No longer, however, is he the local fountainhead of justice. His judicial activities, as President Goodnow aptly states, are "a relic of the past, rather than a forecast of the future."[13]

Most important, of course, are the mayor's administrative powers. He is primarily an administrative officer, charged with the conduct of the city's day to day affairs. Most of the men and women in the municipal service are at least nominally responsible to him. He determines the manner in which the policies of council are to be carried out. Nearly everywhere, therefore, he is given rather extensive powers of appointment. In a number of cities he names the heads of virtually all the important departments, while in others the charters still provide that some department heads shall be popularly elected. Usually his choices must be ratified by council, although many cities now give him a free hand. During the larger part of the nineteenth century councilmanic confirmation was almost invariably required, but the arrangement worked poorly. Instead of insuring the appointment of qualified persons it simply gave council another weapon in its battle with the mayor for power. Often council approved the mayor's nominees with the understanding that he would not veto certain proposed ordinances. Still more frequently the mayor appointed men to office at the suggestion of influential councilmen in exchange for their support of his policies. The

[12] See p. 56.
[13] Goodnow and Bates, *Municipal Government*, p. 234.

question of administrative efficiency was not even raised. Police chiefs, health officers, directors of public works were only pawns in the great game of government. The Brooklyn charter of 1880 gave to the mayor the unrestricted power of appointing department heads, and before the end of the century a number of other cities had followed Brooklyn's example. The trend of the times is toward the abolition of council's control over appointments. In most cities minor officials and employees are chosen by the department heads, usually under civil service regulations.

Quite as important as the power to appoint is the power to remove. Nearly everywhere the mayor has authority to dismiss all officials appointed by him—the consent of council being unnecessary in some cities, and required in others. New York's charter, for example, authorizes the mayor to remove almost any of the city's higher administrative officials at his pleasure. In Chicago, on the other hand, he must submit his reasons to council, and that body, by a two-thirds vote, may override his action. Even those cities which give the mayor a free hand usually establish a rather elaborate dismissal procedure. They provide that he must give his reasons in writing, that he must afford opportunity for a written reply, or that he must first hold a public hearing. After all these formalities have been observed his decision is final. Thus the Boston charter authorizes the mayor to "remove any head of a department or member of a board . . . by filing a written statement with the city clerk setting forth in detail the specific reasons for such removal, a copy of which shall be delivered or mailed to the person thus removed, who may make a reply in writing, which, if he desires, may be filed with the city clerk; but such reply shall not affect the action taken unless the mayor so determines."[14] The purpose of all this red tape, of course, is to prevent hasty or arbitrary action. Its actual effect in most cities has been to complicate the removal of incompetents. Many a mayor has retained an unsatisfactory subordinate rather than endure the unnecessary and humiliating recriminations of a public trial. In

[14] Sec. 14.

a considerable number of cities which have adopted the merit system, minor officials and employees may be dismissed only after a hearing before the civil service commission.

The mayor supervises the work of administration. He is supposed to co-ordinate the city's services and to raise their standards of efficiency. Obviously this duty is only nominal unless he has authority to appoint and remove department heads. No man can fairly be held responsible for the actions of those beyond his control. In the larger cities which have adopted the strong mayor plan or some approximation to it there is a growing tendency to group the heads of departments into a cabinet, after the manner of the federal government. Once every week or fortnight they meet with the mayor and advise him as to matters of general policy. The mayor is not bound in any way by their suggestions, but he has the opportunity to secure different points of view.

As the city's chief executive, the mayor is responsible for the enforcement of city ordinances and state laws. This is a power of the greatest importance, for it enables him to determine when and in what manner the laws shall be enforced. In theory, obedience to all laws should be compelled at all times, but as a matter of fact no government —city, state, or national—tries to enforce all its statutes twenty-four hours a day. To do so it would have to make every citizen a policeman. The number of laws which the average city is supposed to enforce is staggering. Every year its council enacts hundreds of local laws. The ordinances of former years are seldom repealed, and go to make up the total. Added to the list are the state laws, several hundred to a session, for the city is the agent of the state in executing its statutes. Obviously some person must determine which laws shall be rigorously enforced, for they cannot all be. The task usually falls to the mayor or to his subordinate—the chief of police. One day speeders are arrested in great numbers. After that bandits claim the attention of the police for a time. Then may come the bootleggers. Some statutes may be treated permanently

as dead letters; local sentiment, for example, may oppose rigid enforcement of the prohibition laws. Mayors have often abused their discretionary power. They have enforced the law strictly against some men and not against others. They have discriminated in favor of influential friends or other persons with open purses. At times they have used their authority for the purpose of persecuting law-abiding citizens of different political faith. The only remedy for situations of this sort is an aroused public opinion. State legislatures and city councils are not likely to stop the process of grinding out new statutes, nor are they apt to repeal many of the old. Somewhere in government must reside the power of selecting the laws to be rigorously enforced, and the mayor is the proper man for the job. He always holds the spotlight of the political stage.

In connection with the municipal budget the mayor is usually given considerable authority. Some cities empower him to frame the budget and submit it to council. In that case the estimates of expenditure are made originally by the department heads, and the mayor correlates them, balancing them against the estimates of revenue. Council's control over the budget varies widely from city to city. In Boston it may reduce or strike out items, but may not increase them, and any changes it makes are subject to the mayor's absolute veto. In Philadelphia, and probably in most cities, it may amend the budget in any way it sees fit, even to the point of discarding all the mayor's suggestions and substituting figures of its own. Its amendments must be approved by the mayor, of course, or else be repassed over his veto. Some cities vest the power of framing the budget in a board, of which the mayor is usually the presiding officer. New York's budget estimates are prepared by the board of estimate and apportionment. Chicago is typical of a number of cities. Its budget is framed by the finance committee of council, but like other legislation must be sent to the mayor for his approval. There is a growing tendency among American cities to increase the budget powers of the mayor, making him com-

pletely responsible for the preparation of estimates and giving him a voice in the final determination of budget policy. In New York a three-fourths vote is necessary to override the mayor's veto of budget items, though only two-thirds is required for most other matters.

Social Duties

A large part of the mayor's time is occupied with social duties. Officially he is the head of the city government, and he is expected to welcome distinguished visitors, address civic gatherings, preside over chamber of commerce luncheons, and enlighten the women's clubs. In the bigger cities these activities may easily take several hours a day. And no mayor could afford to refuse all invitations to speak in public. If he did, he would speedily acquire a reputation for coldness and indifference. His political enemies would declare that he was not "one of the people." He would lose the opportunity to make friends of thousands of men and women. He may employ an "official welcomer" or a "municipal host," as is done in some cities, but most of the time he must appear in person. The pleasure of his company is requested—and expected—every day at a vast number of functions. Then there are the people who wish to see the mayor personally. They wend their way daily to the city hall. Their business may be very trivial indeed. It may require only the attention of a junior clerk. But they wish to be sure that the mayor himself knows all about the matter, and if they are turned away after an interview with some underling they are apt to take offense. They are unreasonable, of course, yet their votes may be needed to turn the tide at the next election.

Every mayor must decide whether to emphasize the technical or the popular aspects of his office. He must be either a good administrator or a good fellow. He cannot be both. Occasionally a mayor like Mitchel of New York or Hunt of Cincinnati has chosen to devote his time and energy to raising municipal standards, leaving social activities to others as much as possible, and permitting subordinates to hear the trivial complaints of trivial people. The aver-

age mayor, however, places popularity before administrative efficiency. He is always ready to listen sympathetically to the troubles of others. He never refuses to speak before the Kiwanis Club or the Women's Auxiliary. He can call thousands of men and women by name, and he belongs to at least a score of fraternal orders. To him these things are more important than efficient and economical government, and the reason is clear. They undoubtedly contribute more to his advancement. In a few years he must again go before the people, seeking re-election as mayor, or perhaps asking that he be made governor or United States senator. He must be fondly remembered as the popular mayor with the sympathetic ear and the open hand. Poorly paved streets or inadequate fire protection can readily be explained; the blame can easily be shifted to someone else. But no amount of explaining will help the mayor who is a poor mixer, and no improvement in municipal standards will insure the support of the organization. The man who would go far in the political world must have the organization's backing, or else develop an organization of his own.

Every mayor soon learns that the people have an exaggerated idea of his powers and his influence. To many he is the "father of all," able to ease every sorrow and right every wrong. Women come to him asking that he solve their domestic problems; reformers of every description visit his office to request that he make all people virtuous. Brand Whitlock, who served four terms as mayor of Toledo, writes of some of his experiences: "I have been waited on by committees—of aged men—demanding that I stop at once those lovers who sought the public park on moonlit nights in June, I have been roused from bed at two o'clock in the morning, with a demand that a team of horses in a barn four miles on the other side of town be fed; innumerable ladies have appealed to me to compel their husbands to show them more affectionate attention, others have asked me to prohibit their neighbors from talking about them. One Jewish resident was so devout that he emigrated to Jerusalem, and his family insisted that I recall him; a

Christian missionary asked me to detail policemen to assist him in converting the Jews to his creed; and pathetic mothers were ever imploring me to order the release of their sons and husbands from prisons and penitentiaries, over which I had no possible jurisdiction."[15] The mayor is but one cog in the vast machinery of government. We have taken care to check his activities and to balance him against other officials. Yet in the popular imagination he is omnipotent. When things go wrong, he is held responsible; when civic affairs take a turn for the better, his is the honor and the glory. In fairness he should be given authority commensurate with the responsibility that inevitably falls to his lot.

In France the mayor may be removed by the central authorities. Several American states have followed this European precedent, authorizing the governor to remove any mayor for cause. In New York, for example, the governor must prefer charges and hold a public hearing, but his decision is then final. There is a general tendency to limit this power strictly, so that it may not be used to settle personal differences or satisfy political grudges. Thus the Ohio municipal code stipulates that removal may be made only for "misconduct in office, bribery, gross neglect of duty, gross immorality or habitual drunkenness." Inefficiency is not enough. For the most part governors have used sparingly their power to remove the mayors of cities.[16]

Recent developments in city government, especially the manager plan, have tended to weaken the position of the mayor. Manager cities have made him only the presiding officer of council, or have abolished his office altogether. But the mayor is still the most important official in American municipal life, and is likely to retain his influence for years to come. Under mayor-council government his powers will probably continue to multiply, for the weak mayor plan has demonstrated its impotence beyond shadow of

[15] *Forty Years of It*, p. 218.

[16] See "Governor Donahey and the Ohio Mayors," by Wm. H. Edwards, published in the *National Municipal Review*, June, 1924.

doubt. American city government of the future will have as its cornerstone a strong executive, whether he be known as mayor or manager.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chaps. XII and XIII.

Johnson, Tom L., *My Story,* New York, 1911.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XV.

—— *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XIX.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XI.

Story, R. M., *American Municipal Executive,* Urbana, 1918.

Whitlock, Brand, *Forty Years of It,* 2nd ed., New York, 1925.

Edwards, William H., "Governor Donahey and the Ohio Mayors," *National Municipal Review,* June, 1924.

Mitchel, John P., "The Office of the Mayor," *Proceedings of the Academy of Political Science in the City of New York,* Vol. V, pp. 479-94, 1915.

See the *National Municipal Review,* 1926-9, for occasional biographical accounts of present-day American mayors.

CHAPTER IX

COUNCIL

In the early days of American independence council was virtually the city government. It appointed the mayor, and supervised the nascent municipal administration. Subject to the overlordship of the state legislature it enacted ordinances for the well-being of the townspeople. Some of its members—the aldermen—shared with the mayor extensive judicial power. In the local field council was supreme. But all this has been changed during the last century and a quarter. In virtually every American city the story has been the same. Council has lost power and prestige steadily, until it has come to be regarded by many as a necessary evil, sheltering the misfits of the business and professional worlds. Much of its authority has been transferred to other agencies.

The mayor has gained, of course, at council's expense. His veto and his power to make recommendations have given him a considerable measure of control over proposed legislation. Because he usually frames the municipal budget, he cannot be ignored when fiscal policies are under consideration. The various phases of administration have been placed in his care, or else entrusted to independently elected boards. Many matters formerly decided by council have been taken over by the state authorities. In other ways, also, the authority of council has been restricted. The initiative, for example, has become increasingly popular. It is a device which permits a small portion of the voters to propose legislation for the approval of all the voters.[1] Therefore it substitutes direct popular action for action by council. Many cities have adopted the referendum, so that the people may veto at the polls any of council's legislative acts. Then, too, charters contain all sorts of limitations

[1] See Chap. XIV.

designed to curb council's activities. Bills may be passed only at certain times and in a certain manner; bonds may not be issued beyond a certain amount; for some matters the approval of state authorities must be obtained. In many respects council is but a shadow of its former self. Yet it is still the city's policy-determining body, and its present position seems narrowly restricted only when compared with its former supremacy. Even today its decisions affect every phase of municipal life.

The newer forms of city government emphasize the importance of council. Under the commission plan all municipal powers are vested in a small council or commission, which passes ordinances and then proceeds to enforce them. The commission is all-powerful. The city manager plan, on the other hand, gives the council or commission no direct control over administration. But it provides for a chief executive appointed by council, removable by that body, and responsible solely to it. Since these schemes have been adopted by only a small percentage of our cities, however,[2] a discussion of their peculiar features may well be kept for subsequent pages.[3] Council, as presented in this chapter, is the council Americans have long known—the council of mayor-council government.

Terms and Salaries

Annual election of councilmen was the rule for many decades. The people had an abiding faith in short terms as a sure cure for all political ills. In more recent years, however, two-year terms have become the rule, and in the largest cities even longer terms predominate. Half of the cities with populations of three hundred thousand or more [4] elect their councilmen for four years, and three others use the three-year term. With longer terms have come larger salaries. The once popular theory that every man should be prepared to give freely of his time and talent, with no reward save the joy of public service, has now been defi-

[2] See pp. 69-70.
[3] See Chaps. X and XI.
[4] According to 1926 Census Bureau estimates.

nitely abandoned by all but the very smallest communities. The salaries of councilmen range from sixty-five hundred dollars a year in Pittsburgh to a merely nominal fee per session, as in Kansas City, where the members of council receive five dollars for each meeting, with the maximum for the year set at three hundred dollars. There are sound reasons why the smaller cities should pay their councilmen merely nominal salaries, or even ask them to serve without compensation. The duties of office are not arduous, and require but a few hours each week or fortnight. They need not interfere with a councilman's regular business or profession. In Elmira or Greensboro, for example, a lawyer or a merchant may serve in the council without sacrificing his practice or his trade. And the men who are most needed—the business and professional leaders—can seldom be tempted by an offer of a few hundred dollars. They are more likely to be drawn into the municipal service if they are not compelled to compete with persons who have been attracted by the prospect of three or four hundred dollars easily earned. But in the great metropolitan centers all is changed. A Chicago councilman or a New York alderman has an exceedingly busy life. In addition to council sessions are the committee meetings, which occupy a considerable portion of his time. There are endless matters to be investigated and decided. Hundreds of persons come to make requests or present grievances. And, in addition to all this, time must be found to keep political fences in repair. In a democracy we cannot reasonably ask men to devote half their time or more to the service of the city without making it financially worth their while. For if we insist that they serve without pay we shall either put government exclusively in the hands of the leisure class or else force the representatives of labor and other groups to seek questionable means of swelling their incomes.

Size of Council

Bicameral councils, so popular in earlier days,[5] now continue only as relics of the past. Nearly everywhere the

[5] See p. 58.

second chamber has been abolished. New York City stands alone among the twenty largest cities with its council of two houses. Louisville, Providence, Atlanta and a few smaller communities still retain the bicameral idea, but in all probability single-chambered councils will some day become universal in the United States. Together with the reduction in the number of houses has come a marked decrease in the number of members. The average city council of today probably has from five to nine members. Even a large city like Detroit, with a population not far short of a million and a half, has but nine councilmen, and nine is the number fixed by the charters of Pittsburgh, Kansas City, Cincinnati, Seattle and Indianapolis. Many of the metropolitan centers, however, feeling that nine men cannot adequately represent all sections, have councils composed of about twenty-five members. Philadelphia has twenty councilmen, Boston has twenty-two, and Cleveland, twenty-five. Still larger councils have not entirely disappeared, as evidenced by New York's Board of Aldermen of seventy-one members, and Chicago's council of fifty. Providence has fifty members, divided between two houses. Until 1927 the city of Newport, with a population of scarcely thirty thousand, was the outstanding exponent of the large council theory. Its so-called "representative council," a hangover from town meeting days, numbered one hundred and ninety-five, but has since been reduced to twenty-five. Most authorities strongly favor small councils. One writer goes so far as to declare that although it may not be possible "to make a city council a perfect thing . . . to make it a very large body is to invite deterioration."[6] Strong arguments are advanced to support this view. It is pointed out that able men and women can more readily be induced to serve in a small group, where each person's views are likely to carry weight. Responsibility can be shifted more easily by half a hundred than by half a dozen. A large group, it is said, will not have enough legitimate work to go around, so its members will busy themselves with adminis-

[6] Anderson, Wm., *American City Government*, p. 346.

trative details which should be left to the technicians. The devil does not even neglect city councilmen in his endeavor to find work for idle hands. Certainly American experience with large councils has not been happy, but on the other hand it must be admitted that the calibre of the men chosen more recently under the small council plan has not been materially higher. In most cities the professional politicians have continued to rule unchecked, and their nominees have been elected to council as a matter of course. Naturally there have been some exceptions. It is generally admitted, for example, that Cincinnati's council of nine members is more efficient and more representative of the city's better elements than the thirty-two member council which preceded it. But no one familiar with the Cincinnati situation would claim that the improved tone of city government was due primarily to the drastic reduction in the size of council. Other and more important factors have played a major part.[7] In determining the proper size of city councils the European practice must not be overlooked. The councils of European cities are massive judged by American standards. The number of members is fixed at seventy-five or more in almost all the larger cities of England and Germany, while the London county council has one hundred and forty-four, and Berlin's local assembly, which goes by the jawbreaking name of *Stadtverordnetenversammlung,* has a membership of two hundred and twenty-five. In France most of the city councils are not so large.

Americans, with their small municipal assemblies, are always complaining of the calibre of the men chosen to represent them, while Englishmen refer with evident pride to the character of their large borough councils. It may be important, therefore, to be quite sure of our ground before we reduce our councils to the point where they virtually

[7] See the survey of the government of Cincinnati and Hamilton County made under the direction of Lent D. Upson. See also Leonard D. White's *The City Manager,* Chap. II. The files of the *National Municipal Review* from 1925 to 1928 contain a great deal of valuable information on this subject.

cease to be deliberative bodies. Under the commission form of government the size of the local assembly must necessarily be limited, for each commissioner is in charge of an administrative department. But cities which have not adopted this type of organization need not fix the number of council members at five or seven. In fact, it is doubtful if so few men can represent adequately all the phases of a great city's life. Twenty or twenty-five councilmen may be more satisfactory for the largest communities. It is interesting to note that thirteen additional members were added to Boston's council of nine in 1925, though this change loses some of its significance in view of the fact that it was brought about by legislative interference.

How Should Councilmen Be Chosen?

Some years ago the ward plan of electing councilmen was extremely popular. Most cities were divided into wards or districts, with one or two members of council chosen from each district. During recent years, however, the plan of election at large has steadily gained favor. Even in many of the largest cities, such as Detroit, Pittsburgh and San Francisco, every member of council is chosen by the voters of the entire city without regard for ward boundaries. In all probability most American municipalities now choose their councilmen at large. The steady trend has been away from the ward system, though Boston and Los Angeles returned to it in 1925 after abandoning it several years previously.

Each method of election has several marked advantages and a number of weak points. The ward system, for example, insures adequate representation to every section of the city. There is no danger that the wealthy districts will secure complete control of council, or that the poorer wards, usually the backbone of the organization, will furnish most of the members. Each of the major political parties is fairly certain to be represented, also, for it is unlikely that one party will dominate all the wards. Every member of council knows the needs of his district and sees that they are not neglected. Indeed, he must do so, for otherwise

his constituents will remember his infidelity at the next election, and choose a man who gives promise of serving them more effectively. Thus no section is unduly developed or protected at the expense of other neighborhoods. Moreover, the ward method of election places no heavy burden on the voter. He is asked to choose but one member of council, or at most two or three, instead of eight or nine. He knows the name and record of the man who is definitely labeled as his councilman—or, if not, he has only himself to blame. When all councilmen are elected at large, every member represents every voter, at least in theory. But too often the average voter finds that to be represented by everybody is to be represented by nobody.

Yet the ward system has proved vitally defective in a number of respects. It discourages the man of broad vision who can see beyond the boundaries of his ward and comprehend the needs of the entire city. It places local whims above the general welfare. It forces councilmen to engage in a prolonged scramble for patronage, and to be constantly on guard lest some other wards fare better than their own. They have neither time nor inclination for matters of common concern, for their re-election depends only upon the approval of the men and women in the districts they represent. It is sometimes said that the man who best promotes the interests of his ward will best serve his city, but American experience has been quite the opposite. The ward councilman is usually a ward politician, whose efforts to win ward approval are made at the expense of the entire community. Then, too, election by wards is apt to produce an inferior type of councilman. It is not at all likely that the men best qualified to sit in the city council are so evenly distributed that one may be found in each ward. Instead, some districts doubtless possess a surplus of intelligence and integrity, while others have a marked scarcity of both. Yet each ward must contribute its member. Some able men will be excluded from council because they happen to live in the wrong neighborhoods, while a number of inferior men will inevitably be elected because their districts can furnish no strong competition. Another serious objection

to the ward plan is that it seldom gives to each party a number of councilmen equal to its numerical strength. The majority party, with sixty per cent of the voters, may control eighty per cent of council—a not uncommon situation. The mere fact that the Socialists have fifteen per cent of a city's voting strength is no guarantee that they will elect one of its twenty councilmen. To do so they must have a majority in at least one ward, and the chances are that instead they are scattered all over the city. In Philadelphia the Democrats have regularly polled about fifteen per cent of the total vote for many years, but every one of the twenty councilmen is invariably a Republican. It is quite possible, also, for a minority to get more than its share, rather than less. Under the ward plan a minority of the ballots cast may elect more than half of the members of council. This is because ward system elections are not decided by a majority of the voters, but by a majority of the wards. And the two may be very different. The strength of the majority faction may be concentrated in a few districts, while its rival holds a comfortable margin in all the rest. An illustration may be of some value. Take, for the sake of simplicity, the case of three wards. In each ward five thousand votes are cast. The Republicans outnumber the Democrats by four hundred in Ward 1, and also in Ward 2. In Ward 3 the Democrats have an excess of considerably more than four thousand. As a result the Republicans capture two of the three wards, though in the three wards combined the Democrats have a majority of nearly two to one.

	Ward 1	Ward 2	Ward 3
Democrats	2,300	2,300	4,800
Republicans	2,700	2,700	200
	Republican surplus 400	Republican surplus 400	Democratic surplus 4,600

This illustration makes use of but three wards. As the number of wards is multiplied the likelihood of defeating the popular will is correspondingly increased. Nor is the danger of minority domination theoretical. In many a city the party controlling the local government has managed to keep itself in power by cleverly manipulating ward

boundaries, after it has lost the confidence of the people. The opposition has been concentrated in a few districts, so as to make it quite ineffective.

So many and so obvious are the defects of the ward system that its abandonment by many cities is not at all surprising. In its place they have usually tried the plan of electing all councilmen at large. This method makes possible the choice of men who put the city's interests above local prejudices. It virtually eliminates the need for constant wrangling over the favors to be dispensed to each ward. Election to council does not depend upon the attitude of a single neighborhood. And because every councilman is chosen by the voters of the entire city, it becomes possible to draw upon all available talent, wherever it may be found within the city limits. No man need be excluded from the local assembly solely because his policies or his habits are unpopular in the section where he happens to live. In New York, where the ward system still holds sway, the city's ablest Republican is automatically debarred from the board of aldermen if his home is in a Democratic district. Election at large puts council membership on a different basis. Every candidate may make a broad appeal for city-wide approval. Then there is another aspect of the matter. Councils chosen at large are almost certain to be smaller than councils elected by wards. The San Francisco board of supervisors or city council, a body of eighteen members, is elected at large, but it is a marked exception. Rarely does a municipal council have more than nine members if every member is chosen by the voters of the entire city. To ask the people to vote intelligently for more than nine councilmen is to ask the impossible. Perhaps even nine is too large a number. It is not surprising, therefore, that advocates of a small council look with favor upon elections at large. There is no surer way to get rid of a large municipal assembly than to abolish the ward plan. Whether this is a merit or a defect of the at-large system depends upon the point of view.

Some of the consequences of electing councilmen at large, however, are clearly unfortunate. For one thing, this

system virtually assures the majority party a clean sweep at the polls. The minority is denied a real chance to elect a single candidate. Consider the case of a city which is normally divided between Democrats and Republicans in the ratio of six to four. The Democrats nominate as many men as there are offices to be filled, and the Republicans, of course, do likewise. Then the voters go to the polls, and the large majority of them vote straight party tickets. As a result every Democratic candidate is elected by a vote of approximately six to four. An especially popular Republican may run a little ahead of his fellows, yet the chances are that he will go down with them to defeat. For the tradition of party loyalty lays a heavy hand upon the average voter. Many city elections are nominally nonpartisan, but this often means nothing more than that party names and symbols are omitted from the ballot. The parties may continue to draw up their lists of candidates, and nearly everyone may know that he is voting for Republicans or Democrats. The ward system is often criticised because it fails to give the minority party representation in exact proportion to its numerical strength, but election at large is open to the far more serious criticism that it generally shuts the minority off from all representation. The majority rules—completely. The opposition is effectively denied any voice in municipal affairs. Not only are all the councilmen likely to belong to a single party; they may all be chosen from one neighborhood. Many sections of the city may be ignored by the party leaders when the slates of candidates are framed. The danger that any district will be neglected is not great, however. In practice each party takes care to draw its nominees from all parts of the city and from all classes, so that no section or group will feel slighted. It is poor policy to make enemies needlessly just before election day. A real defect of election at large which should not be overlooked is the greatly increased expense of a campaign. Any man who wishes to be chosen by the people must first make himself known. In other words, he must advertise, and advertising costs

money. The larger the group to be reached, the more it costs. The residents of a single ward can be approached with a minimum of time, trouble and expense, but the people of an entire city can be influenced by nothing short of a city-wide campaign.

A number of cities have experimented with other methods of electing their councilmen, in the hope of finding some system that would be free from the more serious objections of the ward and at-large plans. In St. Louis and some smaller municipalities the members of council are nominated by wards and elected at large. Kansas City elects approximately half of its council at large, and the other half by wards.[8] For a time New York and Boston tried limited voting, but both eventually abandoned it. In Philadelphia it is still used for certain offices, but not for choosing the members of council. The system is called "limited" voting, because each person's vote is limited to a number of candidates less than the full number to be elected. If nine members of council are to be chosen, for example, each voter may express his preference for but five. The practical result of this arrangement is to give the majority party five councilmen, and the minority the other four. At best it is a crude device for ascertaining the popular will. Not much better is the scheme of cumulative voting which has been used in Illinois for half a century. Members of the lower house of the state legislature are chosen by districts —three representatives from each district. Each voter therefore has three votes, but he may distribute them as he sees fit. He may give one to each of his three favorite candidates, or he may concentrate two or even three votes on one man. Apparently no American city has adopted this plan.

Proportional Representation

By far the most carefully devised and most promising system yet tried is the Hare plan of proportional represen-

[8] Kansas City has adopted the manager plan. The mayor, who is a member of council, is chosen by the voters of the entire city.

tation.[9] This scheme, first worked out by an English schoolmaster named Thomas Hill, and later developed by another Englishman, Thomas Hare, is intended to secure the representation of every shade of public opinion in direct proportion to its numerical strength. Whether a city's voting population is made up of reactionaries, conservatives, liberals or radicals, or whether it is divided along some other lines, every group will be represented by a number of councilmen proportionate to the number of votes it can muster. Obviously the plan can be applied only to assemblies or other bodies where there are three or more persons to be elected, each of equal rank. It would be absurd to suggest the use of proportional representation in choosing the mayor, for example, for he could scarcely be so divided that the Republicans would secure sixty per cent of him, while the other forty per cent would go to the Democrats.

Under the Hare system each voter receives a ballot containing the names of all candidates for council. The names are printed in a single vertical column, and he is told to indicate his first choice by placing a figure 1 opposite the candidate's name. His second choice may be expressed by a 2, his third, by a 3, and so he may continue to express as many choices as he pleases, without regard to the number of persons to be elected. He is told, however, that his vote will count for but one candidate—the man who will represent him. At first his ballot will be credited to the person marked as his first choice. As the counting of the ballots proceeds, however, it may become clear that his vote cannot possibly help his first choice—either because the candidate is already elected by the votes of others, or because he is hopelessly out of the running. Therefore, the vote is transferred to the second choice, or, if he has been eliminated,

[9] Various "list" systems of proportional representation, so called because they are based on lists of candidates prepared by the political parties, have been adopted by most of the countries of Continental Europe. These systems, however, place an undue emphasis on party regularity. For a list of communities which have adopted list systems of proportional representation, see Hoag and Hallett, "Proportional Representation," pp. 280-7.

to the third choice. So the transferring process is continued, until a candidate is found for whom the vote can be made effective. The Hare plan is sometimes described as the system with the single transferable vote. No matter how many preferences a person may express, he has only one vote, and it is transferred from candidate to candidate until it actually helps to elect someone. The ballot printed below is typical of those furnished to voters:[10]

SAMPLE BALLOT

DIRECTIONS TO VOTERS

Put the figure 1 opposite the name of your first choice. If you want to express also second, third, and other choices, do so by putting the figure 2 opposite the name of your second choice, the figure 3 opposite the name of your third choice, and so on. You may express thus as many choices as you please, without regard to the number being elected.

Your ballot will be counted for your first choice if it can help him. If it cannot help him, it will be transferred to the first of your choices whom it can help.

You cannot hurt any of your favorites by marking lower choices for others. The more choices you express, the surer you are to have your ballot count for one of them. But do not feel obliged to express choices that you do not really have.

A ballot is spoiled if the figure 1 is put opposite more than one name. If you spoil this ballot, tear it across once, return it to the election officer in charge of the ballots, and get another from him.

FOR THE COUNCIL

	Charles E. Hughes
	Herbert C. Hoover
	William E. Borah
	Henry C. Lodge
	William G. McAdoo
	Carrie Chapman Catt
	James E. Watson
	Samuel Gompers
	Morris Hillquit

[10] Taken from Leaflet No. 5 (7th ed., revised) of the Proportional Representation League.

After the polls have closed for the day the ballots are taken to some central point to be counted. It has sometimes been urged that the quota—that is, the minimum number of votes sufficient to elect a candidate—should be fixed in advance. As an example, the charter might provide for a quota of twenty-five thousand, and in that case every candidate who received twenty-five thousand votes would be declared elected. It is obvious that such an arrangement would result in a varying number of councilmen. A city might have a council of twelve following one election, and a council of ten or fourteen a few years later, according to the extent of popular interest, as reflected in the number of votes cast. Perhaps for this reason, the "fixed quota" scheme has not yet been adopted by any American city, although it is receiving an increasing amount of attention. Instead, the size of council is definitely fixed, and then the quota is determined after each election. Under this "variable quota" plan, the quota is determined *by dividing the number of offices to be filled, plus one, into the total number of valid ballots cast, and taking the next higher whole number* Let us suppose, for example, that a council of 5 members is to be elected, and that 12,000 votes have been cast. Five plus 1 makes 6, and 6 divided into 12,000 gives a result of 2,000. The next higher whole number is 2,001, so 2,001 is the quota. Any candidate receiving as many as 2,001 first choices is immediately declared elected.

The rule given above for finding the quota is simply a mathematical formula which readily supplies the lowest figure that can possibly be used, without the danger of electing more persons than there are offices to be filled. In our illustration, 2,001 is the quota. Why not make the quota 2,000? Because there are 12,000 voters, and it would be at least theoretically possible for the votes to be so evenly distributed that each of 6 candidates would receive 2,000 and therefore be declared elected—a most unfortunate result, since our hypothetical council has but five members! But why not fix the quota at 2,002 or some higher number? Because we wish to keep it as low as we can.

Our purpose in making use of the Hare system is to secure the representation of as many elements in the community as possible.

It has been pointed out that any candidate receiving a quota of first choices—2,001, to continue our illustration—would be elected. But in actual practice it rarely happens that any person ever receives exactly his quota. One very popular man or woman may have a thousand votes to spare. The remaining first choices are probably scattered among the twenty or thirty different candidates, no one of whom has received more than fifteen or eighteen hundred. So after declaring elected the one or two successful persons who have been given more than enough votes, the next step is to transfer their surpluses. Let us suppose that one candidate has 2,940 first choices, instead of 2,001. Obviously 939 of the ballots cast for him are ineffective. He does not need their help. So they are transferred to the men marked as second choices. At this point an element of chance enters. The 939 ballots to be transferred are picked more or less at random from the successful candidate's pile,[11] and it may make a difference which 939 are selected. One ballot may have Mr. X marked as second choice, while another may have a 2 placed opposite the name of Miss Y. If we were considering only a dozen ballots the element of chance might be considerable. Mathematicians say, however, that when hundreds or even thousands of votes are transferred, chance becomes a negligible factor.

Having transferred the surplus of the successful candidate, we look to see if any other now has the requisite 2,001 votes (made up, of course, of his original first choices plus the second choices which have been transferred to him). It then becomes necessary to transfer the votes of those who are hopelessly out of the running.

First let us find the lowest candidate. It may be that only 300 first choices have been expressed for him. Ob-

[11] In order to prevent fraud, however, the rules specify just how surplus ballots are to be selected. Otherwise dishonest election officials might take ballots entirely from "reliable" precincts. The most common requirement is that surpus ballots shall be drawn in equal numbers, as nearly as possible, from each precinct.

viously he cannot hope to win. He is therefore ruled out, and his ballots are given to the men whose names appear as second choices—or third choices, if necessary. Let us follow the career of a single ballot. It contains a figure 1 opposite the name of the person just ruled out. No longer can it serve him, so we examine it to find the second choice. The second preference may be for one of the candidates already elected. In that case it can do him no good, and we turn to the third choice. 3 appears opposite the name of the other elected candidate, and therefore we turn to fourth preference. Here at last we find a man whose fate has not yet been decided; he has not yet been declared elected or defeated. The ballot can be made effective for him, and to him it is given. One after another we rule out the men and women for whom the fewest first choices have been cast, until five candidates have been elected, or until all but five have been eliminated. Those five, then, constitute our council. They have been chosen by a system which, as nearly as possible, makes every person's vote effective.[12] If the fixed quota plan—a fixed quota and a variable number of councilmen—were used instead of the commonly accepted variable quota method, the procedure of vote counting would be about the same. On the opposite page is a specimen result sheet, showing how votes are counted.

Merits of P. R.

The chief advantage claimed for the Hare plan is that it prevents any one group, whether majority or minority, from securing control of council and excluding the representatives of all other classes. Every important element in the community is represented, in exact proportion to its strength. It is no longer possible for the dominant political machine to manipulate ward boundaries in such a way as

[12] Proportional representation must be clearly distinguished from preferential voting. Under the various schemes of preferential voting the voter is asked to express his first, second and third choices. But the purpose of the plan and the method of counting the votes both differ radically from proportional representation. The purpose of preferential voting is to obtain for one candidate a clear majority of all the votes cast. It is generally used in electing one person to office—a mayor or governor, for example.

RESULT SHEET [13]

	Col. 1 First Choices	Col. 2 Transfer of Hughes's Surplus	Col. 3 Result	Col. 4 Transfer of Hillquit's Ballot	Col. 5 Result	Col. 6 Transfer of Watson's Ballots	Col. 7 Result	Col. 8 Transfer of Gomper's Ballots	Col. 9 Final Result
Borah	3	..	3	..	3	..	3	..	3 Defeated
Catt	3	..	3	..	3	..	3	+ 1	4 Elected
Gompers	2	..	2	+ 1	3	..	3	— 3 Defeated	
Hillquit	1	..	1	— 1 Defeated	..	..	..	..	
Hoover	3	+ 1	4	..	4	+ 1	5	..	5 Elected
Hughes	7	— 2	5	..	5	..	5	..	5 Elected
Lodge	3	+ 1	4	..	4	+ 1	5	..	5 Elected
McAdoo	5	..	5	..	5	..	5	..	5 Elected
Watson	2	..	2	..	2	— 2 Defeated	..	..	
Ineffective	..	..	..	..	..	..	..	+ 2	2
Total valid	29	..	29	..	29	..	29	..	29
Invalid	1	..	—	..	—	..	—	..	..

[13] Taken from Leaflet No. 5 (7th ed., revised) of the Proportional Representation League.

to make large numbers of voters politically impotent, as under the ward plan. It is no longer possible for sixty per cent of the people to elect every councilman, as often happens when members are chosen by the ordinary method of election at large.

Another important merit of proportional representation is that it does away with the necessity for primary elections. The sole purpose of primaries, of course, is to find which candidates best represent the voters of every party. But a single election under the Hare system automatically sifts the candidates of the parties and at the same time reveals party strength or weakness. Thus it effects a considerable saving of the voters' time and reduces election costs materially. The plan also prevents a diffusion of the independent vote. Under the usual methods of nomination and election it frequently happens that the independents fail to agree upon a single list of candidates, and so scatter their votes ineffectually. The strength of the organization is concentrated on one slate, of course, and for that reason it has no difficulty in crushing the opposition. But with proportional representation all this is changed. The independent voter probably gives his first choice to one independent candidate, and his second to another. If his first selection is finally ruled out, the ballot is transferred to his second preference, and is not wasted. In this way some independents are certain to be elected—if they have enough adherents to make up their quotas. Their strength is matched fairly against the might of the professional politicians, and they cannot reasonably ask more. Moreover, the Hare system makes it unnecessary for a man to vote with—or against—his neighbors. While the average voter doubtless has something in common with all those who live in his ward, he probably shares most of his interests with men who are scattered over every section of the city—his fellow physicians, fellow plumbers, fellow lodge members. Together with many of his friends he may earnestly desire a certain reform. But under the older election systems his vote is lost because a majority of the people who live in his neighborhood do not share his views. With the in-

troduction of proportional representation he and his friends may unite to secure the election of some person who will adequately represent them. The fact that two men live near each other is a geographic accident, and probably irrelevant; the fact that two men think alike is highly significant, and ought to furnish the basis for every election system.

Objections to P. R.

There are objections to proportional representation, of course. It is said, for example, that the plan tends to destroy party responsibility. The likelihood that one party will have a clear majority is lessened; of that there can be no doubt. In place of a dominant majority and a more or less feeble minority, half a dozen shades of opinion may be represented in council, no one possessing sufficient strength to carry through its program. Temporary coalitions are formed, and the legislative process becomes a game of bargaining among temporarily united but normally hostile groups. But is this really an objection? The majority party in any American council—or in any legislative group anywhere, for that matter—is really a combination of different and often conflicting interests, united by the common tradition of party loyalty and the common desire to control the patronage. The bargaining goes on every day as a matter of course. Moreover, it is mere fiction to say that a majority of the people really think alike on all the important issues settled by council. And if no one party really represents a majority of the voters, surely there can be no justification for one-party control.

Some persons contend that proportional representation is too complicated for the average voter to understand. In 1920 the supreme court of Michigan declared: "An actuary, mathematically skilled in the application of the doctrines of chances to financial and other affairs, might work with confidence upon the possibilities of this system, but to the non-expert . . . it appears 'too intricate and tedious to be adopted for popular elections by the people.' To the average elector the destiny of his vote is a mystery, however

easy it may be for him to follow instructions in marking the ballot."[14] The rules for counting the votes are obviously more complicated than under the older electoral systems, and many voters will never understand them. But the question may well be raised whether they need to.

A far more serious objection is that even the process of marking the ballot is too complex for many electors. Certainly it ought not to be. The mere fact that the figures 1, 2 and 3, instead of the more usual crosses, are placed after the names of the candidates should occasion no difficulty. Yet proportional representation elections frequently produce bumper crops of invalid ballots. At the first Cleveland election under the Hare system more than seven per cent of the ballots had to be discarded. Some voters continued to use crosses; some placed figure ones after two or more candidates. Others made marks which were impossible of identification. Invalid ballots tend to become less of a problem, however, as familiarity with the plan increases. In Calgary, for example, the number of improperly marked and blank ballots decreased steadily from 9.1 per cent in 1918 to 2.4 per cent in 1923.[15]

It is sometimes said that under proportional representation the count takes too long. People who are accustomed to learning the results of a large city election at the breakfast table the following morning object to waiting ten or twelve days before receiving complete returns. But some delay is inevitable under the Hare system. Several thousand ballots cannot be counted, transferred and re-transferred many times in five or six hours. The first Cincinnati count took twelve days. It must not be forgotten, however, that proportional representation eliminates the necessity of a primary. Many more than twelve days intervene between a primary and a final election. Another argument raised against the system is that the counting of the ballots costs more money. But the expense of the primary election is saved. All things considered, the objections to proportional representation are not very serious.

[14] Wattles *ex rel.* Johnson *v.* Upjohn, 211 Mich. 514.
[15] Hoag and Hallett, *Proportional Representation*, p. 149.

Since 1857, when Thomas Hare published his first pamphlet, "The Machinery of Representation," the system which bears his name has been widely adopted throughout the British Empire. It is used everywhere in the Irish Free State, and in parts of Australia, New Zealand and Canada.[16] American cities have followed more slowly, however. The first municipality in the United States to adopt proportional representation was Ashtabula, Ohio, in 1915. Boulder, Colorado, followed two years later. Then came Kalamazoo, Sacramento, West Hartford, and more recently the large cities of Cleveland and Cincinnati, as well as the smaller city of Hamilton, Ohio. The list is not very imposing, and three of the seven cities have since been forced to return to the older methods of election. In 1923 the Connecticut legislature prohibited West Hartford's further use of proportional representation. The supreme courts of Michigan and California had already declared the Hare system unconstitutional. The question of constitutionality first came before the courts in 1920, in the case of Wattles *ex rel.* Johnson *v.* Upjohn.[17] Kalamazoo had adopted two years before a new charter which provided for a council of seven members elected by proportional representation, and the contention was made that since each elector was given but a single transferable vote, though seven persons were to be elected, the new system seriously abridged the right to vote. Every voter, it was said, should have the right to help fill all seven offices, instead of but one. Attention was called to the provision of the Michigan constitution that every qualified person "shall be an elector and entitled to vote." There would seem to be no good reason why the mere statement that every qualified person should be entitled to vote would carry with it a guarantee that he should have the right to make his vote equally effective for every candidate, but the Michigan supreme court thought otherwise. "Each voter has the right to vote for seven candidates," it declared, "by a vote . . . of equal potential value as to each of the seven candidates to be voted for. The Hare system limits his power to

[16] For a complete list see Hoag and Hallett, pp. 275-80.
[17] 211 Mich. 514; 179 N. W. 335.

express his preference. . . .'' So it was declared unconstitutional. Two years later the supreme court of California followed Michigan's lead and declared unconstitutional the proportional representation clause of Sacramento's charter.[18] The only court victory of the Hare system was won in Ohio in 1922. Even the Ohio court of appeals looked askance at the new plan, but it felt that under the home rule provisions of the state constitution local elections were a matter of purely local concern, and it refused to interfere.[19] Since most state constitutions guarantee the right to vote at all elections—sometimes even the right to vote *for all officers*—it is probable that in nearly every state an amendment would be necessary to permit the use of proportional representation.

Powers of Council

In every city the council has a wide variety of powers. The state courts hold that municipal powers not specifically assigned to other agencies are vested in council, and this rule greatly increases the scope of its authority. First of all, council is the local legislative body. Much of its time is spent in considering and passing ordinances for the government and welfare of the city. The charter may prescribe only the outline of municipal organization. In that case council fills in the details. It creates or abolishes bureaus within each department, prescribing the number of employees and the amount of their compensation. It makes certain actions misdemeanors, and provides for their punishment. It gives its official sanction to building codes framed by administrative officers and presented for its approval. It defines and abolishes nuisances. It makes regulations concerning the inspection of boilers, elevators, chimneys. All phases of public health, safety and convenience are regulated to a greater or less extent. Franchises are granted to the city's utilities. In any large city hundreds of ordinances are enacted every year. Of course, the coun-

[18] People *ex rel.* Devine *v.* Elkus, 59 Cal. App. 396; 211 Pac. 34.
[19] Reutener *v.* Cleveland *et al.*, 107 Ohio St. 117; 141 N. E. 27; and Hile *v.* Cleveland, 107 Ohio St. 144; 141 N. E. 35.

cil is not given a free hand in all these matters. The charter limits its activities in two ways. First, it usually specifies in great detail what subjects may be regulated by council, and even goes so far as to prescribe the manner of regulation. Council may be given power to appoint a civil service commission, for example, but the charter may state further that the commission shall consist of three members, not more than two of whom belong to the same political party, that each commissioner shall be paid a salary of three thousand dollars a year, and shall possess certain minimum qualifications. Obviously such restrictions seriously limit the power of council. To make use of another illustration, council may be authorized to own and operate a water works. But this grant of power may be hedged with so many restrictions as to the manner of construction and operation, the quality of the water, the prices to be charged and the way in which accounts are to be kept that council is really left very little discretion in the whole matter. The other set of limitations commonly imposed deals with council procedure. Every bill must be read three times, or at least two; it must be printed and distributed to members before the final vote is taken; it must deal with only one subject, and the subject must be clearly expressed in the title. No bill may be introduced and passed on the same day; the final vote shall be taken by yeas and nays, and the vote of each councilman recorded in the journal. These are restrictions found in many city charters. Nearly always there are still others, designed to insure a proper consideration of every proposal. Then the courts step in with additional limitations on the power of council. Every ordinance must be in harmony with the charter, or it will be declared invalid. Moreover, it must be in accord with all other state laws and the state constitution. It must not conflict with the federal constitution, statutes or treaties, for they are the supreme law of the land. A municipal ordinance is the lowest form of legislation, and as such it must give way to all the higher grades. Not only that, but it must be in harmony with the common law of the state. The common law is the body of customs and precedents inherited from

early days of English jurisprudence, and in this country it is regularly enforced by the courts. In any state the legislature may change the common law, but municipal councils are not accorded the same privilege. They must respect all the traditions. Therefore a municipal ordinance will be declared void by the courts if in their judgment it is unreasonable, oppressive, discriminatory or ambiguous. Obviously an ordinance of council must clear many hurdles before anyone can be certain of its validity. Council regulates many matters by resolution instead of ordinance. The procedure is less formal, but every resolution must also be in harmony with the constitutions and laws of state and nation.

Council has broad powers in connection with the finances of the city. Sometimes it frames the budget through its finance committee, though more commonly it considers the budget presented to it by the mayor or some executive board. Usually it may make such changes as fancy dictates, but in a number of cities it is denied the right to add or increase items.[20] It borrows money on the city's credit, and controls to a greater or less extent the sinking funds set up. Nearly everywhere, however, state constitutions and laws fix the maximum amount of indebtedness, and prescribe in considerable detail the exact procedure to be followed. Council also controls a number of less important financial matters—the approval of large purchases, the designation of banks as city depositaries, and the fixing of salary schedules not specified by charter. With the growth of the home rule movement has come a tendency to relax state control and give to council a larger measure of discretion.

Council is primarily a law-making body, of course, but its control over administration is by no means slight. In many cities its approval is still required for all the mayor's appointments, and in a few it actually appoints the heads of the administrative departments. Sometimes it passes upon the removal of administrative officers.[21] Many mat-

[20] See p. 180.
[21] See pp. 168 and 178.

ters of an essentially administrative nature come directly under its control. It regulates by ordinance hundreds of details which could be handled more quickly and satisfactorily by the chiefs of the city's bureaus. Exceptions must be made to the tenement law, for example. Each exception is duly considered by the proper committee, and then passed by the entire council. Council is literally immersed in a labyrinth of trifling affairs which ought never to come to its attention. Seemingly it cannot learn that its part in administration should be limited to broad supervision.[22]

Council usually chooses its presiding officer from among its own members. Occasionally the mayor presides, and in a few cases the task falls to a popularly elected vice-mayor. But such cases are exceptional. When chosen by council, the presiding officer—president, as he is generally called—has broad authority. He usually appoints all committees, and frequently becomes a member of them all. If council is large, he is practically free to recognize whom he pleases, and the councilman who stands in his bad graces is certain to find difficulty in obtaining the floor. Sometimes he appoints clerks and other minor employees; nearly everywhere, however, the clerk of council and the sergeant-at-arms are chosen by council itself. The clerk of council usually functions as city clerk.

The Committee System

It is impossible to understand the way in which council works without examining the part played by committees. In many cities the actions of council are, to a large extent, merely a reflection of its committees' decisions. Every proposed piece of legislation must be referred to some committee, and council is usually disposed to follow committee recommendations, though not bound to do so. In some cities, of which Philadelphia is an example, committees are under no obligation to make reports to council. As a result, a bill which chances to displease a majority of committee members is quietly buried in some obscure corner of the

22 See Evelyn Barth's excellent description of Chicago's council in the *National Municipal Review*, Sept., 1925.

chairman's desk—or else committed to the waste basket. Council as a body never gets a chance to express its views. In Chicago a majority vote of council will compel a committee to report, but a majority can seldom be mustered for such a purpose. The smaller cities—and some of the large ones, as well—usually require committees to report on every bill entrusted to their care. Every proposal is certain, therefore, to see once more the light of the council chamber. But during its period of hibernation in committee it may have undergone startling changes. It may make its re-appearance so amended that even its author can scarcely recognize it. Council may restore the measure to its original form, of course. Yet if council has twenty or twenty-five members, all busy with their own affairs, it is not likely to do so. When a bill is marked for defeat by the committee to which it has been referred, the most it can reasonably expect, especially from a large council, is a decent burial. The larger the council, the greater reliance must it necessarily place on committee decisions.

The number of regular standing committees varies greatly from city to city. The Chicago council has twenty. The San Francisco board of supervisors, with eighteen members, has nineteen committees. But in St. Louis the number is seven, while in such large municipalities as New York and Philadelphia twelve standing committees are found sufficient. Smaller communities could well get along with five or six. As a matter of fact, even in the biggest cities, a very few committees invariably do most of the work. The others are chiefly decorative. Perhaps most important of all is the finance committee, which considers all proposals concerning taxation, appropriations, borrowing, and the compensation of the city's employees. Sometimes this work is divided between two committees. Then there are committees on public works, safety, health, welfare, water supply. The names differ, of course, but in virtually every city the functions are about the same. Committee meetings often consume more of a councilman's time than the sessions of council. Every councilman may be a member of several committees, and to attend all their discussions and hearings,

consider all their proposals, and prepare bills for their approval may well take more than half the working hours of the week, especially in the larger cities. It makes no difference that the committees, and council also, are busy with insignificant matters which should never come to their attention. Councilmen may complain that they are overworked, but they would not have it otherwise. They never willingly relax their hold on the details of administrative procedure.

In most cities council meets regularly once a week, on a day prescribed by the charter. Usually special sessions may be called by a very few members—from one to five, depending on the size of council. There is never the last-minute rush, therefore, so characteristic of state legislatures. Filibustering is infrequent, for a bill delayed by dilatory tactics at one session is virtually certain to come up for consideration a week or two later. Evening sessions are becoming increasingly popular, for they enable many business and professional men to sit in the city council who would not otherwise be available for public service. Most charters provide that all council sessions shall be public. Council can readily evade this requirement, however, by resolving itself into a committee of the whole. It is then no longer council, but merely a committee composed of all the members of council. There is no rule that committee meetings must be public. Moreover, it ought to be remembered that vital decisions on every important piece of legislation are usually made by some regular standing committee before the bill ever reaches the council floor. So the requirement of public meetings is less significant than it might seem.

History of a Bill

Before concluding this discussion of council, let us take a single bill and trace its history from the time it is introduced until it becomes a municipal ordinance. Any councilman may introduce a bill on any subject. He does so by handing it to the clerk of council, who reads the title. This constitutes the first reading. The president then refers it to the proper committee. Here its battle for life begins. Assuming that the committee is favorably disposed—though

usually it is not—it holds hearings. Those who favor the bill and those who oppose it are permitted to come and express their views. Then it is discussed by the committee, probably behind closed doors. Amendments are offered, and accepted or rejected. Finally it is whipped into shape, and sent to council with a favorable report. At this time its title is again read by the clerk—the second of the three readings usually required by the charter. But hundreds of other proposals may be ahead of it, so it is put in its place on the legislative calendar. In many cities, however, the leaders of council may give it a preferred place if they desire, and thus assure its early consideration. Eventually its turn comes, and then it is given the third reading, this time usually in full. If it has been printed and distributed to all members in advance, a mere reading of the title may again suffice. In some cities debate is strictly limited, while in others every councilman is given virtually unlimited opportunity to express his views. The larger the council, of course, the greater the need for restrictions. At this time amendments are offered, debated and voted on. Finally the vote is taken on the bill in its amended form. If it passes, it is sent to the mayor for his approval.[23] His signature makes it an ordinance. Instead of signing it, however, he may return it to council with a veto message. There is no such thing as a "pocket veto," corresponding to the pocket veto of the president of the United States,[24] for council is almost continually in session. In most cities a bill vetoed by the mayor may be re-passed by council, an extraordinary majority being required for the purpose. If the necessary number of votes can be mustered, the bill is passed a second

[23] Except in manager cities. But see p. 253.

[24] The Constitution of the United States provides that "if any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law." (Art. 1, Sec. 7, Cl. 2.) Many bills are received by the President within ten days of the adjournment of Congress, and if he opposes one of them he may kill it by the simple expedient of "pocketing" it—neither signing it nor returning it to Congress. This practice is known as the pocket veto.

time, and becomes an ordinance without the mayor's signature. After that, of course, anyone who thinks he has been injured may test its constitutionality. And some court decision may show that all the while council was considering a matter beyond the scope of its authority.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, pp. 341-87.

Fairlie, J. A., *Essays in Municipal Administration,* New York, 1908, pp. 125-43.

Hoag, C. G. and Hallett, G. H., Jr., *Proportional Representation,* New York, 1926.

Humphreys, J. H., *Proportional Representation,* London, 1911.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 56-79.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XV.

——— *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XVIII.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chaps. X and XV.

Upson, L. D., ed., *The Government of Cincinnati and Hamilton County,* Cincinnati, 1924, pp. 189-98.

Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, pp. 331-50.

McBain, H. L., "Proportional Representation in American Cities," *Political Science Quarterly,* Vol. XXXVII, pp. 281-98, June, 1922.

The *Proportional Representation Review,* which is the quarterly organ of the Proportional Representation League, contains a vast quantity of information concerning the actual operation of the Hare system.

CHAPTER X

COMMISSION GOVERNMENT

The Story of Galveston

In the summer of 1900 Galveston was a typical American city—prosperous, contented, and miserably governed. It was an important seaport, exporting more cotton than any other city of the Union. Every year its factories turned out products valued at five million dollars or more. It had a population of nearly forty thousand. But its prosperity was in no wise attributable to the character of its government. For years the atmosphere of the city hall had been heavy with vice and corruption. In 1894 an independently elected mayor had ordered an investigation at his own expense, but the only result was a change in the manner of electing the aldermen. And the aldermen elected by the new method proved as inefficient and dishonest as ever. They continued the vicious practice, which had been in effect for two decades or more, of fixing the tax rate too low to meet the city's needs, and then making up the deficit by issuing long-term bonds. Between 1890 and 1900 three million dollars were added to Galveston's debt in this manner. Elected department heads appointed their personal friends and political henchmen to office, and the entire government was conducted chiefly for personal profit. Streets were poorly paved, sanitary conditions were bad, and gambling dens and disorderly houses openly flourished under police protection. The better classes of the city, after trying vainly year after year to improve the standards of municipal administration, were about ready to give up the struggle. Well might it have been written of Galveston, as Bryce once wrote of New York: "These be thy gods, O Democracy: these are the fruits of abstract theory in politics. It was for this then that the yoke of George the Third was broken and America hailed as the dayspring of freedom

by the peoples of Europe—that a robber should hold the keys of the public treasury, and a ruffian be set to pollute the seat of justice.''[1]

Then came disaster and death. Galveston is situated on an island two or three miles off the mainland, and on the eighth day of September, 1900, a fierce storm drove a great tidal wave over the island, virtually engulfing the city. Nearly seven thousand people lost their lives, and twenty million dollars' worth of property was destroyed. Many who had escaped the water hastily sold their property to speculators, and left Galveston. It was a severe crisis, demanding brains and energy. The officials in charge of the city's government could supply neither. Instead of pushing ahead with the work of reconstruction they proceeded to turn the tragedy to their personal profit. They awarded contracts to their friends, and recklessly squandered the city's remaining resources.

At last the people were thoroughly aroused. The Deepwater Commission, an organization of business men previously formed to promote harbor interests, took over much of the relief work, and appointed three of the city's prominent lawyers to frame a new charter. These three men met every evening for two months, and drafted a charter which was at once sent to the legislature for its approval. The legislature approved, and in September, 1901, just a year after the great storm, the new plan went into effect. It utterly ignored the conventional form of mayor-council government, and set up instead an all-powerful commission of five members. This commission superseded the city council, for it passed all ordinances and determined all questions of policy. It also took the place of the traditional mayor, for it made all appointments and supervised the work of administration. It was, in fact, the city government. All authority was vested in its hands. At first the charter provided for the appointment of three of the five commissioners by the governor, the remaining two to be selected by the people of the city. But this clause of the charter was

[1] Bryce, James, *The American Commonwealth*, 3rd ed., Vol. II, p. 392.

declared unconstitutional by the supreme court of the state, on the ground that certain powers given to the commissioners could be exercised only by elective officials. So the legislature amended the charter, making all five commissioners elective. One of the five was designated "Mayor-President," with a somewhat higher salary than his colleagues and the right to preside over the commission's meetings, but he was not a mayor in the usual American sense of the term. He had no veto power, and he shared control of the administration with his fellow commissioners.

From the very beginning the plan was a marked success. Within a few years a large part of the accumulated debt of more than a quarter of a century was paid off, public improvements were planned and undertaken, important sanitary reforms were made, and commercialized vice was greatly reduced. Salaries of municipal employees were increased, yet for the first time in decades the city's cash receipts were made to equal its current expenditures. Steps were taken to prevent a repetition of the disaster of 1900. An enormous sea wall, five miles long, was completed at a cost of two million dollars, and the entire city was raised a number of feet above its former level, houses being placed on stilts and elevated planks taking the place of sidewalks while sand was dredged from the bed of the Gulf of Mexico. Bonds were issued only for this grade raising; every other improvement was paid for out of taxes. Almost overnight Galveston became one of the best governed cities of the nation. And after a short time it was featured in the public press as the wonder city, the municipality that had made a great contribution to the science of government. The commission plan was hailed by students of municipal affairs as the reform that would bring light out of darkness, and end the dominion of the professional politicians.

As so often happens, Galveston received a great deal of credit to which it was not entitled. It adopted the commission form of city government at a highly dramatic time, put it to good use, and showed its possibilities to the entire country. But the city of Galveston certainly did not originate the plan. It merely accepted principles which

had long been a part of American political life. In fact, the borough councils of colonial days were not radically different from Galveston's twentieth century commission. They held in their own hands virtually all the powers of local government, making all necessary ordinances and directing the work of municipal administration. Their presiding officer was a mayor, who possessed no veto power. They might as well have been called commissions, instead of councils. Long after the days of the colonial boroughs, but many years before the Galveston tidal wave, commission government continued to flourish under various names. Many states provided that the public affairs of each county should be controlled by a board of three—sometimes five—commissioners, exercising both legislative and administrative authority. As early as 1863 Sacramento was granted a charter which placed complete control of the city government in a board of trustees, though this arrangement was abandoned some years later. From 1870 to 1882 New Orleans was under a form of commission government, imposed upon it by a "carpetbagger" legislature. The government of the city of Washington has been permanently vested in a board of three commissioners since 1878. Just after 1878 Mobile and Memphis were temporarily governed by commissions, created for the purpose of ironing out local financial difficulties. Yet Sacramento and Mobile are never associated with the commission form of government, while everywhere the "Galveston plan" is known. But this need occasion no surprise. America is named for an obscure Florentine adventure, and the hats first made in Colombia bear the name "Panama."

The Des Moines Plan

As the story of Galveston's successful experiment spread, other cities, badly governed and debt ridden, began to wonder if the plan might not also solve their difficulties. Nearby Houston voted to adopt commission government in 1904, and the following spring the legislature gave the necessary authorization. In 1907 five other Texas cities fell into line, and so did two cities of Iowa—Des Moines and Daven-

port. The Dallas and Des Moines charters contained some new features not used by Galveston. Des Moines especially worked out the new provisions with considerable care, and its scheme of government came to be universally known as the "Des Moines" plan. Actually, the charter framers of Des Moines made no very important contribution. They merely took the structure of the Galveston charter, and superimposed upon it a number of other devices—the merit system, non-partisan primary, direct legislation and the recall. As finally enacted into law the Des Moines charter provided for the election of commissioners by petition. Any man might have his name placed on the ballot by merely securing the signatures of twenty-five qualified voters. This simple procedure was expected to produce an unusually large number of candidates. So provision was made for two elections. The first was to be a sort of trial heat, taking the place of the usual primary. At the second, only the names of the two highest candidates for each office were to be presented to the voters. Party labels were abolished.

The addition of direct legislation and the recall greatly weakened popular opposition to the commission plan. Many honest independents viewed commission government with as much suspicion as did the professional politicians. It was utterly at variance with their accepted habits of thought. All their lives they had been told that concentrated authority was dangerous. Someone might abuse it. The only way, they believed, to prevent the destruction of their liberties was to scatter the authority of government among so many men that a majority could not possibly work together. Wrangling and bickering might be the result, but so much the better for the public. There is an old saying concerning the time when thieves fall out. This theory of decentralization—the theory of American government for nearly a century—was brazenly flouted by the commission plan. The advocates of the new scheme said frankly that power ought to be concentrated, and not scattered still more. The old checks and balances should be swept away. And those who saw the time-honored safe-

guards vanishing looked eagerly about for other safeguards to take their place. If five men were to be given complete control of the city government, surely they must be checked in some way, lest they completely ignore public opinion. Should council no longer be balanced against the mayor, and the mayor against elected department heads, some way must be found to prevent the city government from degenerating into an oligarchy. To many persons, direct legislation and the recall seemed to offer a satisfactory solution. They reasoned that it would be quite safe to entrust city government to five men—if those five might be removed from office at any time by a vote of the people, and if the laws they enacted must stand the test of immediate popular approval.

So as commission government became increasingly popular it was the "Des Moines plan" and not the "Galveston plan" which chiefly attracted attention and drew adherents. Most of the cities adopting the commission principle provided at the same time for direct legislation and the recall. For a time it seemed that commission government would sweep the country. During 1909 twenty-eight cities fell into line, and the next year forty-four municipalities were converted. Within ten years after the Galveston plan went into effect, one hundred and fifty-four other cities had abandoned their old charters for new ones based on the theory of government by commission. By 1917 the total number of commission-governed cities had reached about five hundred. Forty-two state legislatures had recognized the new scheme to a greater or less extent. It really seemed that the commission plan was to be "the climax of a well-defined movement," as a careful scholar had said in 1907.[2]

But after 1917 commission government failed to make much headway. Today it is actually losing ground. For it has proved vitally defective in a number of respects, and has been displaced by its younger rival, the city manager

[2] Munro, W. B., *The Galveston Plan of City Government*, a paper read at the Providence meeting of the National Municipal League, 1907, and reprinted in C. R. Woodruff's *City Government by Commission*.

plan. As cities grow weary of mayor-council government, with all its incentives to poor legislation and inefficient administration, they naturally turn to the manager theory. Fifteen or twenty years ago they would have tried commission government instead. Many municipalities, after experimenting with the commission plan for several years, have abandoned it in favor of manager government. Some few have deserted the ranks of the commission cities to return to the traditional mayor and council, as did Buffalo in 1927. But in all probability only a single city—Albion, Michigan—has ever given up manager government for the commission plan.

Government by commission has never made a strong appeal to the great metropolitan centers. No city with a population of half a million or more has a commission charter,[3] and most of the converts have been communities of less than twenty-five thousand. In fact, the plan has proved most popular among the little towns—places with three or four thousand inhabitants. Some persons contend that it is best suited for these small, semi-rural centers, though it has been tried with varying degrees of success by such great cities as Newark, New Orleans, Jersey City, St. Paul and Portland, Ore.

What Commission Government Is

Nearly every city adopting commission government has made some changes and modifications to suit its peculiar needs or whims. In scarcely any two cities are all the details alike. But there is sufficient similarity to permit a general description. The commission is a small group of men, ranging from three to seven. Five is the generally accepted number. These men are elected at large, most commonly for two years, but sometimes for four. One- and even six-year terms are not unknown. Their salaries vary greatly from city to city. Newark pays seventy-five hundred dollars a year, and New Orleans is only a little behind, with six thousand. But salaries of fifteen or eighteen

[3] Newark, N. J., with an estimated 1926 population of about 460,000, is the largest.

hundred dollars are often paid in the smaller cities, and twelve hundred is a still more common figure. One of the commissioners is designated as mayor, and it is customary to pay him somewhat more than his colleagues. Under the original Galveston plan the mayor was assigned to no specific department. He was expected merely to exercise a careful supervision over all the activities of the city government, while each of his fellow commissioners assumed direct responsibility for one phase of the administration. In most commission-governed cities, however, the mayor also takes a "portfolio," actively supervising public works, police or some other department of the city government. Generally speaking, he possesses substantially the same powers as the other commissioners, his higher title and salary bringing with them only a little added prestige and a sense of dignity. Some cities have increased his importance in various ways—by putting him in charge of numerous miscellaneous functions, by permitting him to convene the commission, or even by giving him a qualified veto over its proposals. To give the mayor a veto power of any sort is obviously to violate the spirit of the commission plan, and most of the communities which have added this "improvement" should probably be listed as mayor-council cities.

The Galveston charter of 1901 did not contemplate the direct handling of the city's administrative affairs by the board of commissioners. On the contrary, it specifically authorized the five members of the board "to appoint, and . . . to discharge all employees, *including the chiefs of departments.*"[4] Appointed department heads were to serve the city, therefore, under the supervision of the commissioners. Each commissioner was to be charged with the supervision of one department—finance and revenue, streets and improvements, or the like—but not with its management. There was no thought that the police and fire commissioner, for example, should be a fire prevention expert, or that he should know the intimate details of police

[4] Sec. 12, Special Laws of the State of Texas, Regular Session, 1901 (Austin, 1901), Chap. XII, 104-46.

administration. For the superintendent of his department, a full-time city employee directly responsible to him, would presumably meet the need for an expert technician. The commissioner, it was thought, would be a broad-minded representative of the people, guided in all technical matters by his superintendent, but keeping department activities within the bounds of popular approval. To put the matter briefly, the commissioner of police was to be a popular representative, determining all important matters of policy, divorced from the actual details of administration, receiving only a nominal salary, devoting but two or three hours a day to the service of the city, and placed in charge of the police department instead of the department of public works because police happened to fall to his lot when the posts were distributed by a majority vote of the commission. The superintendent of police, on the other hand, was to be a technical expert, bound by the decisions of his superior with regard to important matters of policy, charged with all the details of administration, receiving a good salary, giving all his working hours to the city, and appointed superintendent of police because of long experience in the field of police work. In this way it was hoped to combine the two essential features of every democratic government—popular representation and expert direction.

But this original concept was soon lost. The Iowa statute granting commission government to Des Moines provided that "The Mayor shall be superintendent of the department of public affairs, and the council shall . . . designate by majority vote one councilman to be superintendent of" each of the remaining four departments.[5] Each commissioner, therefore, was to be the active head of one branch of the city government, combining the functions of popular representative and expert technician. He was to formulate department policies, subject to the approval of his colleagues; and he was also to direct the actual work of administration. He was expected, of course, to devote his entire time to the task, and his salary was made sufficiently large to permit him to do so. The mayor's

[5] Iowa statutes of 1907, Chap. 48.

salary was fixed at thirty-five hundred dollars, the other councilmen each receiving three thousand. Houston, with a hybrid commission charter, had already made its commissioners active department heads, and as other cities adopted commission government nearly all accepted the Houston-Des Moines idea.

More recently has come another modification of the original Galveston plan. In a number of cities the apportionment of departments is no longer made among the commissioners after election. Instead, each candidate runs for a specific office—commissioner of finance, for example, or commissioner of health. The Iowa law by which Des Moines is governed was amended in 1921 so as to permit this arrangement. When the voters know in advance what commissionship is to go to each successful candidate, they naturally pick out someone who seems to possess the requisite qualifications. They tend to prefer a physician to a layman for the post of commissioner of health. They are inclined to look with favor upon an engineer as commissioner of public works. In this way they encourage the commissioners to interfere with all the details of administration. The commissioner of health, for example, since he is a physician, can see no reason why he should defer to a subordinate. He is likely to insist that all matters concerning the department be referred directly to him. In all probability he will assume the rôle of the technical expert. And so we return to the good old plan of nearly a century ago, which proved in actual practice to be not nearly so good as popularly supposed—the popular election of department heads. These men should be trained experts, and American experience has shown above all else that experts cannot be secured by direct vote of the people.

There are other features generally included in the charters of commission-governed cities which cannot fairly be listed as parts of the commission plan. Direct legislation and the recall, for example, have often been added to insure a sufficient measure of popular control. The merit system of selecting public employees has generally been adopted. In the minds of many persons, therefore, these

innovations are an integral part of commission government. There is, however, no necessary relationship. The commission plan is merely a device for simplifying government by putting it completely in the hands of a small group of directors or commissioners of approximately equal rank and power. The extent of popular control over these commissioners and the manner of choosing minor employees are matters which may vary greatly among commission-governed cities. The initiative and referendum are used by Omaha, for example, but not by Jersey City. Nearly all the larger cities, regardless of their type of government, now select their employees, at least nominally, on a merit basis, while many smaller municipalities, even though governed by commission, frankly ignore the merit principle.

Applying strictly the theory of the commission plan, the commissioners should be the only elective city officials. All other officers and employees should be appointed by them, or under their direction. Many commission-governed cities, however, have been unwilling to carry the theory to its logical extreme. They have hesitated to abolish all other elective officials. Most commonly they have kept the school system under the control of an elective school board. Sometimes they have retained the controller or auditor as a popularly chosen officer. Charter provisions of this sort can be justified, if at all, only on the basis of results. And there can be no doubt that American experience furnishes some strong practical arguments in favor of these exceptions. Take schools, for instance. In the average city the public schools are under the jurisdiction of a school board, independently elected and largely free from the supervision of council. This board selects a full time expert to carry out its policies. Politics sometimes creep into the educational system, of course. Textbooks have occasionally been chosen because of an unholy alliance between board members and textbook publishers. More than one superintendent of education has been appointed because of his ability to control votes. But it is a matter of record that the public school system has usually been kept freer from the polluting influence of partisan politics than any other

phase of municipal administration. Not without reason, therefore, have the people hesitated to transfer control of education from a satisfactory, smoothly functioning school board to a council which has never been satisfactory and has functioned smoothly only as the agent of the city boss. Even when they have adopted commission government, changing the name of council, reducing its size and increasing its powers, they have still been loath to abolish the board of education. For they have reasoned, naturally enough, that while almost any sort of commission might be preferable to the mayors and councils they have known, it might not compare so favorably with the school board. The commission plan has often been adopted as a last resort by maladministered, graft-ridden cities, and it is not surprising that the people have hesitated to tamper with the one comparatively honest and efficient agency in the whole structure of their city government. The independent school board has not given entire satisfaction, however, as will be pointed out later.[6] The demand for an elective city auditor has arisen from a belief that the commission, controlling as it does every phase of the municipal government, making all appropriations and directing how they shall be spent, ought not to be the final judge of the correctness of its own records. Indeed, honest commissioners should welcome a separate audit. It would in no way interfere with their authority, and would strengthen public confidence in their integrity. But it is not at all clear that the controller or auditor should be popularly chosen. His work is distinctly technical; he has nothing whatever to do with determining policy. And it cannot be repeated too often that the people are not able to pass intelligently upon the qualifications of technical experts. Moreover, an elected controller is certain to be an important figure in the political arena. Every election is likely to find two leading candidates, a Democrat pledged to reveal the iniquities of the Republicans who happen to control the commission, and a Republican virtually bound to gloss over anything that would reflect on his party. In all probability the problem

[6] See pp. 586-9.

could best be solved by vesting the appointment of the city controller in the hands of the governor of the state, or else providing for a separate state audit at periodic intervals. Either arrangement would be likely to divorce the auditing of municipal accounts from local politics, and would in no way infringe the principle of home rule.

Advantages of Commission Government

The commission plan is superior in a number of respects to the type of government found in the average American city. For one thing, it concentrates responsibility. All the affairs of local government are controlled by a small group—usually five men—and the average voter no longer finds it such a difficult task to fix the blame or apportion the praise. There can be no shifting of responsibility from council to mayor to elected department heads. A single commission passes ordinances and carries them into effect. No time is lost, no popularly chosen subordinates refuse to obey orders. The likelihood of friction is greatly reduced, for five commissioners can work together more smoothly and with fewer misunderstandings than a mayor, twelve or fifteen councilmen, and the chiefs of a dozen departments.

Then, too, commission government is greatly simplified government. The old-time checks and balances are abolished, and all the complex details of municipal organization are swept away. At last the average voter has a real chance to understand what it is all about. He need no longer be bewildered by a great number of city officials, some responsible to the mayor, some responsible to council, some directly elected and therefore virtually irresponsible—every one going his own way with but slight reference to his fellows. Moreover, the short ballot becomes a reality. The long lists of elective offices which formerly made intelligent voting practically impossible go into the discard with the adoption of the commission plan. The whole process of government is brought out in the open, where it can be seen and comprehended without difficulty.

The advocates of commission government frequently declare that it is an application of business principles and

business organization to municipal affairs. "It is an attempt to apply present-day commercial and industrial methods to the administration of municipal business,"[7] wrote Clinton Rogers Woodruff, then secretary of the National Municipal League, in 1911, and this argument has been used with good effect in many campaigns for the adoption of the commission plan. Everyone knows that American business is famous for its successful methods, so any plan that makes possible the use of these methods in municipal matters ought certainly to receive a cordial welcome. But let us see if the analogy between commission government and modern business organization is sound. Every large industrial corporation undoubtedly is organized along lines which at first glance would seem to suggest the commission plan. At the base of the structure are the stockholders—corresponding to the voters. They have very little voice in the corporation's affairs, but they exercise an indirect control, for they elect the board of directors, at least in theory. Just so the voters elect a commission. Of course, the board of directors is actually chosen by a little group of stockholders, for the others seldom avail themselves of their privilege. But that only strengthens the analogy. Are not city officials regularly chosen by a fraction of the voters, because the others stay at home? In each case, therefore, a board elected by the stockholders (for the voters might well be called the stockholders of a municipal corporation) is in charge. But here the analogy ends. The board of directors of a private industrial enterprise makes no attempt to handle the multitudinous details of the business. Instead it employs a general manager or president—a highly skilled expert, and turns everything over to him. He is responsible for the daily conduct of the corporation's affairs. He decides hundreds of details as a matter of course. Only when important questions of policy arise does he consult the board of directors. The board, therefore, is expected to consider only broad issues. It determines whether the manager is giving satisfaction, and removes him if neces-

[7] *City Government by Commission*, p. 13.

sary. Its duties consume but a few hours each week or each month, and therefore its members are free to devote the major portion of their time to other matters. No one supposes for a moment that they will give their entire attention to the corporation's affairs, or that they will interfere with the work of the manager. How different, therefore, is commission government as it has developed in most of our cities! There is no manager or president, and no official corresponding to him. One of the commissioners is designated as mayor, of course, but as a rule he is merely the presiding officer of the commission, perhaps possessing some slight additional control over administration. The commission, or board of directors, instead of merely settling major questions, handles directly every detail of city government. Every one of its members assumes direct responsibility for some administrative department, and becomes that department's active chief. He is expected to devote his entire time to the city's service, and is paid accordingly. That is to say, in the average city he is paid the salary of a mediocre bookkeeper. What would happen to the Pennsylvania Railroad, for example, if it had no president nor any one person directly responsible for the conduct of its business, if its directors insisted upon handling personally every detail, no matter how technical, and if those directors, having become active managers, were chosen by the thousands of clergymen, telephone operators, mechanics, storekeepers—not to mention the widows and orphans—who own Pennsylvania Railroad stock? In all probability it would survive the competition of other railroads about six months. Yet we take this type of organization, give it to our cities, and call it an attempt to apply business principles! In a few commission-governed cities the original Galveston theory has not been lost. The members of the commission act largely in the capacity of a board of directors, and each commissioner has under him a full time expert directly responsible for the affairs of his department. But even then no provision is made for a general manager or president of the municipal corporation, and the commissioners interfere with the actual details of depart-

ment administration in a way never attempted by the members of any private board of directors.

Commission government is often defended on the ground that it has produced good results, regardless of theory. And anyone who emphasizes results is quite justified, of course. Theory must always give way before cold facts. But it is very easy to assert that the commission plan has brought better government to American cities, and extremely difficult to prove it. There have been instances, of course, where municipal services have been unquestionably improved, without any corresponding increase in the tax rate. One writer, after visiting Galveston in 1906, enthusiastically reported: "The commission found the city bankrupt; it has raised its credit above par. It has saved Galveston one full third of her gross running expenses. The annual cost of the government of Galveston has averaged about $650,000. In the four and a half years of commission government ending February 28, 1906, a saving of at least $1,000,000—over $220,000 a year—had been made in comparison . . . with the years of the general aldermen following 1895. The government in the four and one-half years preceding the commission had incurred $250,000 of debt for current running expenses; the new government incurred absolutely no debt for this purpose. The former government had had to its credit $425,000 more in assessed taxes than the new one. After making allowance for the inefficiency of tax collection under the old régime, the commission during its first four and a half years had saved the city at least $500,000, which it must have raised by taxes or added debt if the old administration had been in charge."[8]

But it has seldom been possible to present such concrete evidence of improved municipal administration. In most cities the tax rate has continued to rise nearly as rapidly after the adoption of commission government as before. Such a result might have been foreseen, for the people are constantly demanding new services and higher standards. They are no longer satisfied with the type of school building

[8] George K. Turney, writing in *McClure's Magazine*, October, 1906.

or the kind of street paving which met their needs a decade ago. They require more careful inspection of foodstuffs, more extensive provision for playgrounds, more thorough safeguarding of public health. All these things cost money. They inevitably force up the tax rate, regardless of the type of municipal organization. Nevertheless, the foes of commission government point gleefully to the undeniable fact that the government of a city frequently costs more today, though administered by a commission, than it formerly did under a mayor and council. And the plan suffers in popular esteem because it does not reduce expenses as many of its proponents recklessly promised.

City government must be measured, not in terms of tax rates or per capita expenditures, but on the basis of service rendered. The fact that two cities spend the same amount per capita for police protection is no necessary indication that they protect their citizens equally well. One may spend its money unwisely while the other may make every dollar count. One may require a larger outlay than the other in order to obtain the same results—perhaps because of a greater area requiring protection, or because of proximity to a great metropolis. The only satisfactory test of the efficiency of a city's government, therefore, is this: Are the people receiving a maximum return in the form of services rendered for the dollars they pay into the city treasury?

Unfortunately, it is extremely difficult to measure exactly the quality of municipal administration. Many a chamber of commerce boasts that its city is the best governed in the country, but it would have considerable difficulty in proving its assertions. Many variable factors complicate the problem. Costs differ from section to section, and even from city to city. Local conditions make fire protection or water purification quite easy in one municipality, and quite difficult in another. In recent years students of municipal government have attempted to formulate concrete standards of administration, so that the efficiency of each service, and of the government as a whole, might be accurately weighed. As yet, however, they have made little progress.

Their studies have not advanced far beyond the point of suggesting proper methods of approach. In the absence of fixed and uniform standards, therefore, any statement as to the efficiency of a city government under various possible types of organization—mayor-council or commission, for example—can be nothing more than an expression of opinion. And in government, almost as much as in religion, the opinions of men and women are known to differ widely. With regard to commission government, however, a few generalizations may be risked. In most cities it seems to have given greater satisfaction than the mayor-council plan which preceded it. Probably it has brought the taxpayers a greater return on their investment in the form of improved services. That it has done so seems to be the consensus of opinion. Yet it has done very little to improve the quality of municipal officials. Many of the men who now serve as commissioners formerly served as mayors or councilmen. Others of the same species are finding their way into office. The commission plan has been of value chiefly in concentrating responsibility, and forcing the officeholder to give a definite accounting to the public. There have been some conspicuous failures, of course—instances of commission-governed cities under the domination of compact political machines. Even in fairly well-governed municipalities some graft and corruption have crept in. A few years ago, for example, the people of Des Moines learned that the commissioner of parks was keeping on the city payroll the names of eleven persons who had no existence save in his own fertile imagination. The salaries of these eleven shadows were regularly paid out of the city treasury, of course, in good substantial currency.[9] But such instances cannot fairly be charged against the commission plan. After all, no type of organization is in itself a guarantee of good government. The problem of securing the right men is perennial.

On the other hand, it is not at all certain that the triumphs of commission-governed cities are directly traceable

[9] See the article by Merze Marvin in the *National Municipal Review*, Sept., 1925.

to their form of organization. The transition from mayor and council to commission has usually been made as a protest against marked inefficiency or excessive corruption. It has generally been put through by the masses of the people, in a moment of righteous indignation, against the wishes of the professional politicians. And as the people have swept the politicians temporarily aside, they have elected to office men of superior calibre—men who could take almost any governmental system and make it work well. Under such circumstances it is not surprising that the early years of commission government in any city are usually years of sound procedure and honest administration. As President Lowell aptly puts it: "Every new plan works well for a time, because the movement for reform from which it springs brings good men to the front and places power in their hands. The real test comes in later years when the momentum is exhausted, and the moral enthusiasm of the dawn has faded into the light of common day."[10] Under the commission plan many cities have found it impossible to keep in office men of the calibre originally selected. The good records made at first have not always been maintained.

Defects of Commission Government

During the thirty years since the tidal wave which swept commission government into popularity the plan has revealed serious weaknesses not at first noticed. For one thing, it has failed to concentrate responsibility sufficiently. Curiously enough, its early proponents loudly heralded it as a way to get rid of the divided responsibility of mayor-council government. "It is unreasonable," they declared, "to expect good results from a system which diffuses authority among a mayor, twenty councilmen or more, eight or ten elective department heads, and a number of independent boards. Therefore let us vest all municipal powers in a single commission of five men, and hold it strictly accountable. In this way we can do away with confusion and uncertainty." The reasoning was plausible,

[10] *American Political Science Review*, Vol. VII, p. 62.

and not entirely unsound. Five men are far less likely to disagree and far easier to watch than fifty. But the experience of American cities under the commission plan has proved at least two things: that even five men may fail to co-operate with one another, and that it is not always easy to apportion praise and blame among the members of a small commission. When the streets fall into disrepair the public's natural reaction is to hold the commissioner of streets responsible. He may answer his critics, however, by saying that his fellow commissioners, who have authority as a group to override him, have prevented him from accomplishing satisfactory results. If the other members of the commission happen to belong to another party or faction, he is very likely to make some such retort. Denials and counter-charges are sure to follow, and the public is soon lost in the maze of recriminations. Time and again municipal business has suffered for long periods, and occasionally it has virtually stood still—all because the members of city commissions could not agree. Commission government accepts the principle of concentration, of course, but it does not carry that principle far enough. It puts five men in charge of administration, instead of one. And though five heads may be better than one for deliberative purposes, one is greatly to be preferred when action is needed.

Government by commission is of necessity government by amateurs. No provision is made for drawing "career" men into the municipal service as heads of departments. Each department head is elected by the people. He knows how to gain popularity and how to get votes. He has a large personal following, and since it is almost impossible to win an election without organized support, he is probably a powerful member of the dominant political organization. In other words, he is a professional politician. Not only that, but he is apt to devote a modicum of time and attention to his work as commissioner after he has been elected. For his advancement does not depend upon his mastery of administrative affairs. It rests upon the continued approval of the voters. And every commissioner

knows this full well. He may be casting a longing glance at a seat in the state senate or in Congress, or he may even aspire to the governorship. But in any event he must win other elections, so all his efforts are bent toward securing greater popularity. His life work is but distantly related to police or streets. In fact, the management of the police or street department is but an incident in his career.

What possible reason, therefore, could a trained administrator find for serving as a city commissioner? In the first place he must make a bid for popular favor, accepting the always disagreeable and sometimes humiliating experiences of a political campaign. Then, if successful, he must take office with the knowledge that his term is but for two or four years, regardless of good behavior. Of course, he may be a candidate for re-election. But in that case he must again bear the heat of a political campaign, fought out, in all probability, along lines which have no relation to his record or his qualifications as an administrator. And in the end he may be defeated by the Italian vote because he dismissed an inefficient Italian employee. Conditions of this sort do not appeal to the expert, especially when they are coupled with very low salaries.

A minor defect of commission government is that it necessitates a small legislative body. Even Newark and New Orleans, the largest cities functioning under the plan, have five-member commissions. Five is probably too small a number to represent adequately every section of a great city, yet a much larger commission would be out of the question. Picture, if you can, a commission of seventy-one members in charge of the affairs of New York City, and the municipal administration divided into seventy-one departments, so as to afford each commissioner an opportunity to exercise his talent! With no one person responsible for co-ordinating the work of administration, seventy-one virtually independent department heads would speedily bring municipal affairs to the brink of anarchy.

Then, too, the commission plan arbitrarily fixes the number of departments, taking no account of local conditions and paying no attention to local needs. If there are five

commissioners, there must also be five departments—no more and no less. That number may serve the needs of one city very well, but may prove totally unsuited to the requirements of another. The services performed by the governments of such great metropolitan centers as New York and Chicago are so numerous that they could not possibly be grouped into five main divisions without placing many unrelated functions in one department. And unrelated functions ought not to be combined. If they are, some are certain to be neglected. Let us suppose, for example, that water supply, sewage disposal and a host of less important matters, from public markets to boiler inspection, are all included in the same department. The commissioner in charge cannot possibly hope to become familiar with every phase of his varied responsibilities. He may happen to know something about water supply problems, or he may be sufficiently interested to learn. In that case he is nearly certain to neglect sewage disposal. And as for boiler inspection, that activity will have to get along as best it can without his supervision.

Commission government is fighting a losing battle. It is generally regarded with disfavor by the professional politicians, and it no longer makes a strong appeal to well-informed independents. Never popular in the metropolitan centers, it now finds virtually no converts among the smaller communities. American city government of the future may continue to rest on the century-old foundation of independent mayor and council. It may build on the new theory of council and dependent manager. But one thing is quite clear; it will have little in common with the commission plan. There is no reasonable doubt that commission government has shot its bolt, even though it is still accepted by nearly five hundred American municipalities.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, pp. 320-5.

Beman, L. T., *Current Problems in Municipal Government,* New York, 1923, pp. 233-72.

Bradford, E. S., *Commission Government in American Cities,* New York, 1911.

Bruère, Henry, *New City Government,* 2nd ed., New York, 1916.

Capes, W. P., *The Modern City and Its Government,* New York, 1922, pp. 126-49.

Chang, T.-S., *History and Analysis of the Commission and City Manager Plans of Municipal Government,* Iowa City, 1918.

Fosdick, R. B., *American Police Systems,* New York, 1920, pp. 174-86.

Kales, A. M., *Unpopular Government in the United States,* Chicago, 1914, pp. 139-80.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 80-91.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XIV.

—— *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XX.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XII.

Woodruff, C. R., ed., *City Government by Commission,* New York, 1911.

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CHAPTER XI

THE CITY MANAGER PLAN

WATER-BORNE disasters have vitally influenced the course of city government in the United States. A tidal wave virtually swept the commission plan into Galveston. Thirteen years later a flood of the Miami River demonstrated the helplessness of Dayton's municipal authorities in the face of a grave crisis, and the people of Dayton eagerly welcomed the suggestion that the city council employ a manager to direct the affairs of the city, just as the board of directors of any private enterprise might hire a manager. The idea of a city manager did not originate in Dayton, however. As early as 1908 the council of Staunton, a little municipality of western Virginia, passed an ordinance creating the office of general manager, and placing in the new official's hands "entire charge and control of all the executive work of the city in its various departments, and . . . of the heads of departments and employees . . ."[1] Shortly afterward three small towns in the Carolinas followed Staunton's example. But when Dayton, a city with a population of one hundred and twenty-five thousand, fell into line, the plan attracted nation-wide attention.

It did not require the flood to show that drastic reforms were needed in Dayton's government. Many persons were disgusted with the waste and inefficiency of the old régime, and a committee had already been appointed by the chamber of commerce to draft a new charter, with the late John M. Patterson, president of the National Cash Register Company and Dayton's most prominent business man, as its chairman. But the flood which came in the spring of 1913, destroying one hundred and twenty-eight million

[1] Staunton, Va., Records of the City Council, Vol. II, p. 346. This ordinance is conveniently reproduced in Reed and Webbink, *Documents Illustrative of American Municipal Government*, pp. 371-2.

dollars' worth of property and costing eighty-four lives, emphasized the committee's argument that the government of Dayton needed a thorough overhauling. It made clear to the masses of the people, just as any other severe test would have done, how ineffective the mayor and council really were. The governor of the state met the emergency by putting the city under martial law, and making Mr. Patterson a colonel in the National Guard, with complete power to do what was necessary in bringing order out of chaos. Relief measures were promptly adopted, and in a short time careful plans were laid for the reconstruction of the flooded area. The new temporary government contrasted sharply with the old. Everyone could see that the business men in charge of the city's affairs were deftly solving difficult problems—problems that would have paralyzed the professional politicians. No wonder, therefore, that the demand for a "business" government became widespread. The people were told that the new city manager plan was merely an adaptation of well recognized principles of business organization, and when they were asked to pass upon the question of adopting it, they voted overwhelmingly in the affirmative. The election was held in August, five months after the flood, and on the first day of January, 1914, the charter went into effect.

It is quite correct to say that the manager plan borrows from modern business its method of organization. City council ceases to be a group of department heads, as under commission government, and assumes the rôle of a policy-determining body—a board of directors, to use the analogy of corporate enterprise. This council or board of directors hires a manager, a technical expert who is placed in charge of every phase of municipal administration. Just so the board of directors of a private corporation employs a general manager to carry out its policies. Once chosen, the manager of a business has full authority to select his subordinates and direct their work. He is in complete control, though he is at all times responsible to the board of directors, and may be dismissed by them if he fails to give

service. Similarly the city manager is given a free hand—at least in theory. Members of council may occasionally attempt to dictate his appointments and interfere with his methods, but in so doing they violate the spirit, and sometimes the letter, of the charter. In his own sphere of administration the manager is supposed to be supreme. He is, however, responsible to council. He may be removed by council at any time if he fails to give satisfaction. To complete the analogy, the board of directors of a private corporation is chosen by the stockholders, and the council of a municipal corporation is selected by the voters. Clearly the city manager plan offers something which commission government promised but never gave—a form of municipal organization drawn from present-day business practice.

Growth of the Manager Plan

Since its adoption by Dayton, city manager government has attained widespread popularity. During 1915 and 1916 thirty-eight municipalities followed Dayton's example. By the end of 1920 the total number of manager cities had risen to 162. At present [2] there are about four hundred. Many of these are cities which long suffered from the vagaries of the weak mayor plan, and adopted the new scheme in the belief that it could not possibly give worse government than they already had. Others are deserters from the ranks of the commission cities, looking for something still better. Most of the four hundred manager cities have written the new plan into their charters. About one-fifth of them, however, have retained their old charters unaltered, merely creating the office of manager by ordinance, and retaining an elected mayor and other officials, as did Staunton in 1908. The ordinance method of getting a city manager is a reasonably satisfactory makeshift if the state legislature cannot be persuaded to make necessary changes in the charter. But it is merely a makeshift, for all that. It implies nothing of stability or permanence. An ordinance passed today may be repealed tomorrow for any rea-

[2] 1929.

son that may strike the fancy of council, or for no reason at all. Not unnaturally, a manager prefers definite recognition of his office in his city's fundamental law.

At first the manager plan made its appeal almost entirely to the smaller cities—communities of ten thousand or less. The great metropolitan centers were not interested. Prior to 1921 only three cities with populations in excess of one hundred thousand were numbered among the converts. Even today the large cities are inclined to stand aloof, but an ever increasing number of them are adopting manager government. Since 1923 Cleveland, Cincinnati, Kansas City (Mo.), Rochester (N. Y.), and Indianapolis have been added to the list. Cleveland, with an estimated population of about one million, is the largest city operating under the plan. There have been surprisingly few desertions. Only seven municipalities have abandoned manager government, and most of them did not give it a fair trial.

Description of City Manager Government

Before weighing the merits and defects of the plan, a somewhat detailed description is necessary. In the first instance the city manager idea was nothing more than an attempt to improve commission government, so it is not surprising that there are marked resemblances. Manager charters provide, first of all, for a commission or council. This council is the city's law-making body, and it is directly responsible to the people for the condition of municipal affairs. Its members are popularly chosen, usually for terms of two or four years. Since council is purely a deliberative or policy-determining body, there is no reason why it should be restricted to five members. The earlier charters, however, following the example of the commission plan, almost invariably provided for five-member councils, and even designated them as "commissions." For a time the new plan was generally known as commission-manager government. But the phrase "commission-manager" is unfortunate, for it suggests that the city manager idea is merely a variation of the commission plan. Actually it is

something very different. With the employment of a manager, the members of council cease to be the directing heads of administrative departments. Their influence on administration is supposed to come only through their control over the manager. Therefore adequate representation properly becomes the determining factor in fixing the number of members. The manager charter of Cleveland provides for a council of twenty-five, and nine-member councils are now found in a number of manager cities.

Under the strict theory of the manager plan council has just two functions. One is to pass necessary ordinances and resolutions; the other is to select the city manager and hold him responsible for the conduct of the municipal administration. All administrative matters are under his control. In practice, however, there are a number of variations from this theory. Some manager charters vest rather broad powers of appointment in council. In Fort Worth, for example, the council selects the board of equalization, the public recreation board, the park board, the civil service board, the art commission, the city planning commission, and numerous other commissions and boards, in addition to the municipal judge and other officers. The approval of council is also required for the manager's nomination of the city treasurer and the director of law. Arrangements of this sort obviously hamper the manager, and make him something less than he is supposed to be—the directing head of the city's administrative affairs. It seems that many persons do not even yet appreciate the dangers inherent in checks and balances. They insist upon hampering the new plan of government with some of the worst features of the old. Fortunately, the Forth Worth charter is not typical, though it is by no means an isolated case.

Under the manager plan the office of mayor is retained. As a rule, however, the mayor exercises no important powers. He presides over council sessions, and acts as the city's ceremonial head, relieving the manager of most of the bother connected with the reception of distinguished visitors, the unveiling of monuments, and a hundred other

time-consuming activities of a similar nature. He may be charged with the duty of preserving order in time of emergency. Usually he is chosen by council from among its own members, though in many cities he is elected as mayor by the voters. His salary is generally higher than that of his fellow councilmen, and occasionally he is even given power to suspend ordinances temporarily or to grant pardons.[3]

The central figure of the manager plan, of course, is the manager. He is chosen by council, usually for an indefinite term. It is intended that he will remain as long as he gives satisfaction. Some charters provide that he may not be removed during the first six months, so as to give him a real opportunity to prove his worth. His responsibility is directly to council, and only indirectly to the people of the city. He is a paid employee of council —a glorified employee, directing all the city's administrative affairs, and more often in the public eye than any councilman, but an employee none the less. The theory of manager government is based on the assumption that council will choose an expert administrator, but very little is said in the charters about necessary technical qualifications. Some few charters stipulate that the manager must be "competent," "a qualified administrator," "possessed of business and executive ability," or something of the sort. Such provisions are not likely to be of any great value, for opinions may differ as to the exact meaning of "competent," and latent executive ability may be discovered in any ward politician by a favorably minded group of councilmen. In four cities the manager is required to be an engineer, and in three others the charters state that engineers must be given preference. An outstanding feature of the manager plan is the common omission of any requirement that the manager be a resident of the city. Many charters expressly provide that residence is not necessary. Council is thus encouraged to find the right man for the job, even though it may have to go outside the limits of the city, or even the state. There is no compulsion, of course;

[3] As in Kansas City.

it is still free to select a local political leader. But for the first time in the history of American city government the need for expert, non-political administration is given definite recognition.

Since council appoints and dismisses the manager, it should be the one agency directly responsible to the people. The manager is saved the trouble and embarrassment of a political campaign, and he should not be obliged to trim his sails to every passing gust of public fancy. In a few cities, however, of which Dayton is typical, he may be removed from office at any time by an adverse popular vote. Under such circumstances, naturally enough, he is likely to consider the immediate political effect of his every action. He must always be prepared to defend his plans on the basis of temporary expediency. He must avoid making enemies, even if he sacrifices the city's welfare in so doing, for his livelihood depends directly on popular approval. In other words, he must be somewhat of a politician—the very thing the manager plan is designed to avoid. Fortunately, the framers of most manager charters have realized the incongruity of taking the election of the manager out of the hands of the people, only to let them pass directly upon the question of his dismissal.

The manager's powers are far reaching. In fact, he is usually the most important municipal official. Everywhere he is the head of the city's administration, charged with the execution of the policies framed by council. In the smaller communities he actually directs the work of one or more departments, serving perhaps as municipal engineer and thus reducing the total payroll. It is customary in the large cities, however, to provide for a skilled expert at the head of each department, and the manager is therefore free to devote his time to supervising and co-ordinating municipal activities. He selects his subordinates, from department chiefs all the way down the line, and the consent of council is not required as a rule. A formal merit system, with employees selected on the basis of competitive tests and dismissed only after regular hearings, may or may not be used, but in any event the manager is expected to select

the most suitable applicant for each position. In the field of legislation council is supreme. Its decisions are final. Yet the manager is not shut off from all part in policy determining, for he is in a position to exercise considerable influence over council. He attends all council meetings and makes such recommendations as seem desirable. He has no vote, of course, and council is in no way bound by his suggestions. But in practice it is very likely to defer to his judgment, for he is an expert devoting all his time to the city's affairs. In all probability he knows more about community needs and community problems than anyone else. Council meetings are generally held in his office. Not infrequently he has the right to call special sessions. He frames the budget and submits it for council's approval.

The Manager and Council

Probably the most difficult problem facing every manager is the adjustment of his relations with council. Under the theory of the manager plan council alone determines matters of policy. The manager must be careful to keep hands off. He may suggest, advise, urge—but once council has made up its mind he must abide by the consequences. He is only council's employee, and he is expected to give loyalty to his employers. That is the theory, but time after time it breaks down in practice. In fact, some managers have gone so far as to throw the theory overboard. They point out, with reason, the dilemma of the manager who finds his plans blocked by a stupid and obstinate majority in council. Perhaps he has spent years in working out a needed improvement program. He knows, far better than any layman, that the program is essential to his city's development. He realizes that any protracted delay will be very costly. Yet council has voted his suggestions down, and refused to take any action. What is he to do? Ought he to sit with folded hands, knowing that he has fulfilled his obligations, or should he carry the fight to the voters? In all probability the community regards him highly. It might be persuaded to insist that council accept his point of view. It might even be induced to defeat the obstinate

councilmen at the next election, and elect in their place other councilmen pledged to support him. His opportunities for reaching the public ear and firing the public imagination are endless. Every day he gives interviews to the public press. Several times a week he speaks in public —before the chamber of commerce, the boosters' league, or the ladies' auxiliary. Why not talk about something of vital importance, why not point out how council has failed to provide for civic needs, instead of describing some relatively trivial administrative problem?

The temptation to go directly to the people over the heads of the councilmen has proved too strong for some managers to resist. Manager Hopkins of Cleveland does it regularly, and so do the managers of some lesser cities. In Cleveland men are elected to council on a "support Hopkins" platform, and the manager has no hesitancy in appealing for popular encouragement if council fails to follow his lead. He has definite policies, and to his mind it is essential that those policies be carried out. He prefers the willing cooperation of council, but if that cannot be obtained he resorts to deliberate coercion by means of public appeals.[4] In a number of other cities the managers are not far behind him as framers of policy. As early as 1918 one manager declared: "The fellow who is actually performing a real service to the place where he is employed is the *active* manager who leads community thought."[5]

All this is a far cry from the original concept of the manager plan. The manager is supposed to be a technical administrator, not a political leader. Moreover, he must remain purely an administrator, for the moment he tries to shape public opinion in defiance of council he plants the seed of his own destruction. He may win popular support at the next election, and secure a council composed of his own adherents. But sooner or later he will lose an election, and then he will inevitably be forced out of office. The manager who advocates policies must stand or fall with

[4] See the excellent account of Manager Hopkins in Leonard D. White's *The City Manager*, Chap. I.

[5] *Ibid.*, p. 189. Cited from the 1918 Yearbook of the City Managers' Association.

those policies. When the public withdraws its support from his ideas he is honor bound to resign and permit the appointment of another manager whose policies are more to the public's liking. Thus he ceases to be a permanent, non-political official. His ability as an administrator becomes less important than the popularity of his plans.

It is not easy for a manager to keep his lips sealed when the council overrides his cherished ideas, especially if he knows quite well that ignorance and prejudice have been determining factors. Yet in no other way can he build the tradition of professional, permanent, non-partisan service. Prophecies are always dangerous, but one may be ventured at this point with reasonable assurance. If the time ever comes when a majority of city managers attempt to mold community thought directly, regardless of council, the manager plan will speedily give way to mayor-council government. For a manager who is primarily a determiner of policy and only secondarily an administrator differs in only one essential from the mayor Americans have long known. He is appointed instead of elected. And that difference cannot long continue. We have always insisted, quite properly, upon popular election of our policy-determining officers. If the manager is to be included in the group, he also must be chosen directly by the voters. The people will demand the right to select their political leaders, as they have always done.[6]

Professor Leonard White sums up the matter clearly. Speaking of city managers, he declares: "If they follow the strict theory of the manager plan and conceive themselves primarily as professional-technical administrators, they achieve the prerequisites of permanence in their position and lay the foundation of city administration of an order of excellence hitherto unequaled. But they do this at the cost of being forced to observe the needs of the city ignored, or misrepresented, or so ineptly set before the voters that they are defeated at the polls. If they set themselves to the task of supplying the deficiencies of the coun-

[6] In 1929 Wheeling (W. Va.) amended its manager charter to provide for the popular election of a "mayor-manager."

cil and directly or indirectly attempt to direct public opinion in favor of the needs of the city, they may easily achieve the temporary leadership of their community, but only at the serious risk of becoming involved in politics and of forfeiting the privilege of giving uninterrupted technical service of a high order of excellence.''[7]

The Strong Points of the Manager Plan

A number of advantages are claimed for the manager plan. The fact that it is organized along the lines of modern business is constantly stressed. ''More business in government'' is a popular phrase these days, and any scheme which seems to promise business efficiency in the field of public administration is sure of a cordial reception. Some persons criticise the adoption of private corporate organization by our cities. Municipal government, they say, is not business. It is a combination of private enterprise and public service. It is under no obligation to show a financial profit. On the contrary, it is expected to show a deficit which must be met out of taxes, and that deficit is ever increasing as community services multiply. All this is true, of course, but it must not be allowed to obscure the essential fact that most of the work of city government is no different from the daily routine of thousands of private industrial enterprises. It consists of paving and repairing streets, purifying water and supplying it to homes and factories, collecting wastes and disposing of them, providing recreation of various kinds, from playgrounds to municipal opera. These things involve no important questions of policy. They are routine transactions of a highly technical nature, such as business men handle every day. In a word, they are administration. It is safe to say that nine-tenths of the work of our cities is administration. Only at rare intervals does a vital issue make its appearance.

The greatest achievement of the manager plan has been to produce trained administrators, and to give American city government its first really professional touch. Most

[7] White, Leonard D., *op. cit.*, p. 230.

of the city managers are engineers. Not more than half a dozen were ever actively engaged in politics. They have been drawn in large numbers from almost every class except the class of the professional politicians. Many of them serve city after city, their records in small communities securing them tempting offers from larger municipalities. The first city manager, Charles E. Ashburner, went to Staunton at a salary of twenty-five hundred dollars. He has just resigned from his fourth city, where his salary was twenty thousand. There are scores of managers who have directed the affairs of at least two municipalities, and the number is constantly increasing. When Sumter advertised for a manager in 1912, receiving replies from nearly one hundred and fifty candidates and finally selecting a non-resident civil engineer, it created a mild sensation. But since that time a great many cities have followed its example. "Manager wanted" is a phrase not infrequently found in the advertising sections of the technical magazines. The city council of Cincinnati did not advertise publicly, but it conducted a nation-wide search for a suitable manager. At last it chose a West Point graduate associated with the government of the District of Columbia. Imagine, if you can, any American city advertising for a new mayor, or going beyond its own borders to find one! Such heresy would not for a moment be tolerated. Yet the manager plan has so gripped the imagination of the people that they actually applaud when council tries to find the best man for the job, wherever he may be found. Nearly half of the men who have served as city managers since 1908 have been outsiders, obviously chosen without any regard for their ability to control local votes.

In every city a considerable element may be found opposed to the appointment of a non-resident manager. The professional politicians are almost invariably found in this group, of course, because they would like to make the managership a reward for party loyalty. But they by no means stand alone. They are supported by many well-intentioned citizens whose vision cannot extend beyond the town

limits. "If we are going to spend several thousand dollars for a manager," men ask one another, "why give it to a stranger? Aren't there plenty of our own boys well fitted for the job, without bringing in an outsider?" One obvious answer, of course, is that home talent may be lacking. But even if it is present in abundance, there are sound reasons why an outsider should be chosen in preference to a local man. For one thing, a non-resident is certain to approach his task without local party affiliations, and without any obligation to distribute desirable berths among his friends. He has no embarrassing pledges to fulfill. Then, too, his decisions are less likely to be influenced by childhood prejudices. Because everything is new to him, he can get a perspective of the city and its needs. The local man must, almost of necessity, lack that vision, for he is too close to the ground. It is sometimes said that a resident will better understand local conditions. But any properly trained manager can learn all he needs to know about local conditions in six months. After that probationary period the out-of-town man has a marked advantage. Moreover, the regular selection of resident managers would tend to discourage capable administrators from entering the profession. It would take from them one of their chief incentives—the hope of promotion to bigger municipalities at higher salaries. An ambitious young man of real administrative ability might accept the managership of Clark, South Dakota, or Keansburg, New Jersey, if he had reason to believe that the door of opportunity would be open to him in the larger cities. But he would inevitably be forced into some other field if the habit of selecting only residents became universal, for he would know that his first appointment would also be his last. Many sincere friends of the manager plan say that an outsider should always be chosen *if no suitable local man is available.* It would be better counsel to advise instead the selection of a local man *only when no suitable non-resident can be found.* Preference should be given to the applicant from out of town, if only to aid in building up the tradition of permanent, professional service.

The salaries of city managers are surprisingly high, judged by the general run of municipal salaries. Cleveland pays twenty-five thousand a year, and so does Cincinnati. Rochester and Stockton are not far behind, each paying twenty thousand. In more than a score of cities the salary of the manager is ten thousand dollars or over. On the other hand, there are many underpaid managers, some receiving as little as fifteen hundred per annum. The average for all manager cities, however, is about forty-five hundred dollars, and this figure seems quite satisfactory when we recall that most municipalities operating under the manager plan are small communities, with less than ten thousand population. Of course, the salaries of city managers are low as compared with the sums paid by private industrial enterprises to their executives. But in comparison with the salaries of elected mayors they appear remarkably generous.

The proponents of the manager plan frequently point out that it has been successful to a marked degree in freeing municipal administration from the baneful influence of partisan politics. The average city manager is not interested in strengthening the dominant political organization. To him the matter of improving municipal standards is vital, and he usually selects his assistants without regard for partisan considerations. There are some managers, of course, who regularly and flagrantly play politics.[8] Even an efficient and conscientious manager may occasionally find the pressure too great, and permit the appointment of a henchman of the machine to some administrative post. But it may be said conservatively that the spoils system has played a smaller part under the manager plan than ever before in the history of American city government.

A good way to test any theory is to put it into practice and watch the results. The results of the manager theory so far have been quite satisfactory. In some cities brilliantly successful administration has been achieved. Cincinnati, long known as one of the worst governed cities in the country, adopted the manager plan in 1925, and almost

[8] See p. 255.

overnight the new administration put municipal affairs on a high level of honesty and efficiency. Under manager government a large number of other municipalities have paralleled the experience of Cincinnati. "In general there can be no doubt that managers have made a success of the business routine of the city," declared Professor White in 1927, after completing a first hand study of conditions in thirty-one manager cities. "They have clearly been more alert to possible savings, have planned with greater foresight, have handled purchasing with greater success, have eliminated influence more completely than most mayors. The record of achievements year by year is a striking account of civic accomplishment and demonstrates a power of steady progress and unremitting care certainly not characteristic of any other group of cities. They have been ready to accept any tested improvement as a matter of course, and are constantly seeking in their conventions for clearer light on their technical problems. They have had the desire to make a creditable record in administration, and by and large they have succeeded." [9]

It should be freely admitted, however, that the success of manager government cannot be measured in terms of dollars and cents. Only in rare instances and for short periods have the economies of city managers been sufficient to offset the universal upward trend of municipal expenditures. Only occasionally has it been possible to find important achievements which could be clearly labeled as products of manager government. We must rely to a considerable extent on opinions, as we did when considering the commission plan. And intelligent men and women who live in manager cities seem to be fairly well agreed that this type of organization has raised standards, reduced waste, and given the taxpayers more for their money than they ever received before. Of course, the idea is new, and there is no denying President Lowell's previously quoted observation that every new plan works well for a time.[10] It is often difficult to tell whether good results come from citizen

[9] *Op. cit.*, p. 234.
[10] See p. 232.

interest in a good movement, or merely from citizen interest, without regard to the merits of the movement. But manager government is built on a foundation of sound theory. It gives considerable promise of surviving the boom stage.

Defects of the Plan

In certain minor respects the manager plan has proved defective. Most serious of all, it has failed to produce competent political leadership. Such leadership cannot properly come from the manager, of course; his business is administration, and not politics.[11] It must, therefore, come from council. But council is not accustomed to the responsibility. For half a century it has looked to the mayor as the dominant figure in local political life, and has gradually settled down in comfort to the business of saying yes or no to his suggestions. It has not been expected to take the initiative. And this arrangement has usually been satisfactory to the men who have served in American city councils. As a rule they have had no far-reaching programs, no vision of future needs, no ability to point out the path of municipal progress. They have been small calibre persons for the most part, totally incapable of providing any real leadership. Unfortunately, many of these men are still found in our city councils, and in some instances they have been joined by others of the same stripe. The manager plan has not materially altered the situation. It has not offered sufficient inducement to high grade men to seek service in council. Yet it has placed on council a new burden—the burden of guiding community thought. When it robbed the mayor of virtually all his powers it took from the city its political leader, and it has set up no new leader in his place. Council has proved unequal to the job of formulating sound policies.

It has sometimes been suggested that the mayor might fill the breach if he were given additional powers and recognized as the city's political head. Perhaps for this reason a number of manager charters entrust him with consider-

[11] See p. 245.

ably more authority than his colleagues in council. In Fort Worth, for example, he is president of the sinking-fund commission, and in Berkeley he is a member of the board of education. Other cities also give him membership on various boards. Sometimes his power of appointment is rather extensive. The Rochester mayor appoints the commissioners of deeds, and in Cincinnati a great many officials and commissions are appointed by the mayor, with council's approval. The outstanding example, however, is Kansas City, whose mayor has broad appointive power, the right to pardon certain classes of offenders, and even a suspensive veto. His veto may be overridden by a simple majority of council, but at least he can compel reconsideration of any proposed ordinance. Charter provisions strengthening the power of the mayor are probably unwise, for they contain a serious element of danger. The mayor is apt to consider himself the head of the government in administrative matters as well as in questions of policy, and in a short time he may interfere with the work of the manager. Sound theory confines the mayor strictly to the field of policy determination, but in the rough and tumble of municipal politics there is little time for theory. The mayor may become a competitor of the manager for control of the city's government, and if a contest of that sort develops the public is sure to be the loser, regardless of the outcome.

Manager government, as devoloped in the cities of the United States, has shown several unfortunate tendencies which are constantly emphasized by opponents of the plan. For one thing, many a city has employed its first manager at a good salary, only to pay his successor considerably less. Dayton, for example, at first paid twelve thousand dollars, but the second manager received only seventy-five hundred a year. In Phoenix, Wichita and a number of other cities, Dayton's example has been followed. Salary reductions of this sort usually indicate a lag in public interest. Particularly discouraging has been the tendency to select local men as managers after the first appointment. In city after city the story has been the same. A thorough search, nation-wide if necessary, is made for the first man-

ager. In their early enthusiasm the people are satisfied with no one less than the best man obtainable at their price. Then enthusiasm wanes. Local prejudices creep in. After a time the manager resigns—because he has received a more attractive offer, perhaps, or because the local politicians have made his position untenable. Whatever the cause of his resignation, a resident of the city is chosen as his successor. After that the local tradition holds full sway. There are many exceptions to this rule, of course. But it may safely be said, as a result of past experience, that when a municipality chooses its third or subsequent manager the chances are two to one he will be a local man.[12] This does not necessarily imply that he will be incompetent, or that he will be merely a tool of the dominant political machine. It does mean, however, that his viewpoint is likely to be narrow, and that he is virtually certain to have friends clamoring for jobs in the municipal service. Worst of all, it indicates that his opportunity for advancement is seriously limited, regardless of the kind of service he gives.[13]

The manager plan is based on the assumption that managers will be technical experts. Unfortunately, many of the men selected as managers are nothing of the sort. Professor White estimates that "perhaps four managers out of ten are not professionals in any sense of the word."[14] The mere fact that a person bears the title of manager does not make him a trained administrator. As a group, city managers hold office for surprisingly short terms. There are some marked exceptions, of course. Two or three have served for fifteen years or more without changing their allegiance. But the average manager stays in office about two years and a half. Then he goes to another city or deserts the profession. Desertions are not uncommon. Some managers are so unsuccessful in their first attempt that they never try again; others display such remarkable ability as administrators that they are speedily drawn into the field of private business at salaries the cities cannot

[12] White, Leonard D., *op. cit.*, p. 139.
[13] See p. 249.
[14] *Op. cit.*, p. 281.

hope to match. It is encouraging, however, to note that the average length of managers' terms is steadily increasing. It should continue to increase as administrative experts are developed in greater numbers.

It is sometimes said that the manager plan does not necessarily insure good government. Obviously this statement is true, for no type of organization can guarantee the selection of well-trained officials. Good men are quite as essential as good laws. Unfortunately, some friends of manager government have not realized this elementary fact. More than once they have made unqualified assertions which could not be proved, and promises which could not be fulfilled. In the heat of the campaign they have sometimes said that the manager plan would eliminate all graft, confound the professional politicians, and make the municipal administration one hundred per cent efficient. Then has come the adoption of the plan, together with the speedy return of the professional politicians to power; and the government has continued on about the same plane as before. In Kansas City, for example, the introduction of manager government resulted in the selection of a manager long affiliated with the local Democratic organization, and pledged to continue the supremacy of his faction. The first manager of Ashtabula was picturesquely described as a man who had "no qualifications for manager except that just at the time he was badly in need of a job whereby to support himself and family."[15] When circumstances of this sort arise, good government cannot reasonably be expected. But the masses of the people do expect it, for they have been told that the manager plan will produce a civic millennium. The millennium fails to put in an appearance, and they blame the plan. Even at the expense of losing a few votes it would be better to say frankly that manager government cannot guarantee the honesty and efficiency of city officials. It is merely a scheme for simplifying the municipal framework and making easier the task of selecting good men.

[15] Hatton, A. R., "Ashtabula Experiences," *National Municipal Review*, Vol. V, pp. 660-2.

Some years ago, when Dayton and Norfolk were the largest manager cities, many people freely asserted that the plan would not work well in the great urban centers—communities with populations of three hundred thousand or more. Their contention was based chiefly on the fact that the large cities had made no move in the direction of manager government. This argument is heard less today, because Cleveland, Kansas City, Cincinnati and Rochester have fallen into line. It ought to be discarded altogether, for it has no sound basis. Large cities need professional administrative service quite as much as their smaller neighbors. And they are in a better position to procure it. They can pay more attractive salaries with less effort. Should the city of Chicago adopt the manager plan, it could afford to hire administrative talent of a high order. A manager's salary of one hundred thousand dollars a year would impose a burden of but three cents on each person. But if Springfield, Illinois, became a convert, it would have to levy a tax of nearly seventeen cents per capita in order to pay the manager ten thousand a year. Moreover, the small town manager must be a Jack-of-all-trades. He must handle many administrative details himself, for lack of high salaried subordinates skilled in the various phases of municipal administration. But in a great city every department can be headed by an expert technician. The manager need only be an administrator, supervising and co-ordinating. He has a better chance to succeed in the metropolis than in the village.

Future of Manager Government

The future of the manager plan is bright. It has seized the public imagination, and is constantly gaining adherents. Four out of every five new charters are based on its principles. In fact, it seems quite likely to become in time the typical form of American city government. Yet there are a number of factors on which its continued popularity depends. Most important of all, perhaps, is the calibre of the men chosen as managers. Expert administrators must be selected, and political considerations ruled out. Preju-

dices against out-of-town men must be set aside. There must be training schools to prepare apprentices, for every profession worthy of the name has its schools and its specialized courses of instruction. The University of Michigan was the first to offer college work designed to prepare men to become city managers, and its example has since been followed by at least half a dozen American universities. The time may come, therefore, when it will be virtually impossible for a man with no administrative training, but with a host of friends and membership in half a hundred fraternal orders, to secure appointment as a city manager.

The success of the new plan depends in large measure upon the willingness of council to give the manager a free hand in the field of administration. He is supposed to direct the day-to-day routine of municipal business without interference, and when councilmen violate this principle they undermine the foundations of manager government. On the other hand, the manager must not forget that he is the employee of council. He should execute council's policies promptly and faithfully, whether he likes them or not. For policy determining is not part of his job, and cannot concern him if he is to remain a permanent, professional administrator. Time and again the distinction between policy formulating and policy executing is ignored in manager cities. Sometimes council oversteps the line; equally often, perhaps, the manager is at fault. But manager government cannot be expected to function satisfactorily unless the distinction is clearly made and consistently maintained.

The problem of securing effective political leadership must somehow be solved. Perhaps more men will be elected to council who are capable of visualizing their city's needs and stirring the public imagination. It may be, instead, that the mayor will become an important figure in the city's political life, guiding community thought with regard to all major questions of policy. In a number of manager cities he has already become something more than a distinguished figurehead, though this arrangement has tended to produce unfortunate disagreements between mayor and

manager.[16] One thing is certain, at any rate: the development of competent leadership outside of the manager's office will remove the chief obstacle to the smooth functioning of the city manager plan.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, pp. 325-39.
Chang, T.-S., *History and Analysis of the Commission and City Manager Plans of Municipal Government,* Iowa City, 1918.
City Managers' Association, *Yearbooks,* Lawrence, Kan., 1915-24.
Crane, R. T., *Digest of City Manager Charters,* New York, 1922.
Fitzpatrick, E. A. and others, *Experts in City Government,* New York, 1919.
Mabie, E. C., *City Manager Plan of Government,* New York, 1918.
Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XVII.
—— *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XXI.
National Municipal League, *The Story of the City Manager Plan,* New York, 1926.
Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XIII.
Rightor, C. E., *The City Manager in Dayton,* New York, 1919.
Story, R. M., *American Municipal Executive,* Urbana, 1918.
Toulmin, H. A., Jr., *The City Manager,* New York, 1915.
White, L. D., *The City Manager,* Chicago, 1927.
Woodruff, C. R., ed., *A New Municipal Program,* New York, 1919.

Cohen, Joseph, "The City Managership as a Profession," *National Municipal Review Supplement,* July, 1924.
Ellis, Ellen D., "The City Manager as a Leader of Policy," *National Municipal Review,* April, 1926.
Johnson, L. J., "Two Forms of the City Manager Plan," *American City,* August, 1927.
White, L. D., "Four Hazards to Success and Progress in City Manager Government," *American City,* December, 1927.

The City Managers' Association, with headquarters at Chicago, Ill., published from 1918 to 1926 the *City Manager Magazine.* In 1927 the title of this publication was changed to *Public Management.*

[16] See pp. 252-3.

CHAPTER XII

THE COURTS

Strictly speaking, the city has no courts. There are, of course, courts exercising jurisdiction within its borders. Some of them are even known as municipal courts. They may be occupied in part with the enforcement of municipal ordinances. Their judges may be chosen by the city's voters, and paid from city funds. But they are a part of the state's judicial system, enforcing state laws as well as city ordinances. Their jurisdiction may extend well beyond the city limits. Their more important acts are subject to review by the higher courts of the state. And if their judges are locally chosen, it is only because the state legislature deems that method of selection most convenient.

Yet the administration of justice is so closely related to every phase of the city's activities that it cannot be ignored in any well-rounded discussion of municipal government. City police and state judges work hand in hand, or ought to, for the reduction of crime. The privileges which a city gives its residents are protected in the courts. Penalties for violations of city ordinances are imposed there. Thousands of urban folk—the poor, the ignorant, the unfortunate—think of government primarily in terms of policemen and magistrates. Most of the city's creative activities are beyond their limited horizon.

In the early days of American urban life no attempt was made to separate the judiciary from the law makers and administrators. The same men passed ordinances, carried them into effect, and sat in judgment upon the persons who violated them. The mayor was a justice of the peace, with power to try both civil and criminal cases. Similar authority was commonly vested in the recorder and the aldermen. The aldermen, together with the recorder and

the mayor, sat as a court, having extensive jurisdiction.[1] But this system collapsed in the first years of the nineteenth century, especially in the larger cities. The administrative and law-making activities of municipal officials were making heavy inroads on their time, and often they found it impossible to handle the cases coming before them with any reasonable degree of promptness. Moreover, they were seldom lawyers, and they found it no easy task to solve the legal problems resulting from the complexity of urban life. At about this time, also, the theory of the division of powers was making a powerful appeal to men's imaginations. In the fields of federal and state government it was generally accepted that the executive, the legislature and the judiciary ought to be independent of one another, and it was natural enough to carry this idea over into the local realm. So in time separate courts were set up, largely free from interference by mayor and council, and presided over by men presumably chosen because of their special qualifications. Even then the justices were not commonly required to be "learned in the law." The whole judicial system came into being gradually, without conscious planning or thought of future development. Small wonder, therefore, that in most cities today it is a hodgepodge of multifarious courts, overlapping jurisdictions, confusion and delay.

Court Organization

To give a precise description of American municipal courts—their organization, jurisdiction and procedure—would be a stupendous task, without significance for the average student of city government. In no two cities is the court system exactly the same. New courts have been added here and there from time to time to relieve the pressure of increasing litigation, but seldom have they been fitted into the existing system in any logical manner. Instead, they have usually been given the same jurisdiction as the courts already in operation. More recently minor tribunals have been set up in many cities to deal with spe-

[1] See p. 56.

cial problems, such as domestic relations, small claims, or traffic. The court system of Boston, therefore, bears little relation to that of Cincinnati, while Philadelphia and Chicago differ widely. Throughout the United States there are manifold variations. One might almost think that the men responsible for our municipal judicial systems had in mind the old proverb concerning the spiciness of variety. If so, they evidently forgot that a little spice goes a long way.

It is possible, however, to make some generalizations. At the base of the judicial pyramid are the magistrates' courts, sometimes known as police courts, justice courts, district courts, or by any one of a half dozen other names. The magistrates who preside over them are most commonly elected by the voters of the city, though they may be appointed. As a rule, they are not required to be lawyers, with the natural result that men are elected to interpret the law who do not even understand fundamental legal principles. Terms of office are short, usually from two to four years. In some cities, however, the magistrates are chosen for ten or twenty years, or even for life. Salaries range all the way from a few hundred dollars a year to five or six thousand in the largest cities. For the most part they are pitifully small—just enough to attract the poorer grade of professional politicians. Magistrates generally have jurisdiction over petty suits, where only small sums are involved. The limit may be fifty dollars, or it may be as high as five hundred. With regard to criminal matters, their jurisdiction is summary over violations of municipal ordinances or minor infractions of the state law. In other words, they may try the accused, determine his guilt or innocence, and fix his punishment if found guilty. Of course, this arbitrary power covers only such things as breaking health regulations, violating traffic laws, disorderly conduct, vagrancy or other trifling offenses. Moreover, the penalties which may be imposed are fixed by law within narrow limits. They are restricted to small fines and short terms of imprisonment. Almost invariably a person found guilty has the right of appeal to some higher

court. Anyone accused of a serious crime is also brought before a magistrate, but only for a preliminary hearing. The magistrate at once passes upon the probability of guilt. If satisfied that there is no valid evidence against the accused, he is discharged. When any doubt exists in the magistrate's mind, however, it is his duty to hold the accused for action by other authorities. He then fixes the amount of bail.

The magistrates are usually regarded as of minor importance in the general scheme of judicial organization. Their salaries are so low, their jurisdiction so limited, and their prestige so slight that inevitably they are men of inferior calibre, with only the barest knowledge of legal matters. Their office is usually a reward for party service. It was reported recently of Baltimore that "the appointments of police justices, with occasional exceptions, are based upon political expediency and are made at the behest of political leaders rather than because of fitness for these important posts. . . . Indeed, two of the present group were for a time during their incumbency members of a political party committee."[2] Baltimore is merely typical of a large group of cities. It is a rare thing to find a municipal magistrate properly qualified for his work. This condition of affairs is particularly unfortunate, for the majority of cases are tried in the magistrates' courts, and never go any higher. It can be said of most persons that "appearance in the police courts represents their only contact with the law, and from this contact they get their impression of justice. Can there be any doubt that considered collectively the cases in the police courts are of first importance in the effort to control and reduce crime? They are ten times as numerous as the cases in the criminal courts. As a whole they create more public annoyance. They concern the security of a vastly greater number of citizens. They involve largely the ignorant and uninformed, the poor and the friendless, the restless and discontented—in short,

[2] Mr. Johnstone, of the Baltimore Criminal Justice Commission, quoted by the National Crime Commission in its report, *The Relation of the Police and the Courts to the Crime Problem*, p. 24.

the group from which, for the most part, serious offenders come. The most learned, skilled, patient, efficient and experienced judges that the community can produce are needed properly to try these cases. For both from the standpoint of checking criminal careers and saving useful producers in the work of the great city, and of protecting the life and property of the peacefully disposed, there is great hope in the task. It is an indefensible policy that tolerates the trial of criminal offenses in courts that are for the most part admittedly political and inefficient. The rights and liberties of the accused and the protection of the city against crime are far too important for the decision in particular cases to depend upon the whim of politicians, the caprice of dullards, or upon any other consideration than the evidence capably analysed and the law skillfully and honestly administered."[3]

Above the magistrates' courts are the trial courts of the state, bearing different names from commonwealth to commonwealth. Here persons accused of serious crimes are brought to trial, and civil suits involving larger sums are begun. There may be separate courts for criminal and civil matters, or the same courts may handle both. It is not unusual to differentiate the civil courts from the criminal, but to have the same judges preside over both. Virtually every city has at least one trial court, but its jurisdiction may extend beyond the city limits, including an entire county or a specially created judicial district. The judges of these courts may be elected or appointed. They are paid considerably larger salaries than the magistrates, and as a rule they are much abler men. There is no uniformity among the states as to the term of office, but long terms are becoming increasingly popular. Ten years is a common tenure.

In about fifteen states there are courts of appeals, and every state has a supreme court, though not always so called, at the apex of the judicial pyramid. These courts have better paid and better trained judges, whose time is devoted chiefly to hearing cases brought on appeal from

[3] National Crime Commission, *op. cit.*

the courts of inferior jurisdiction. They are usually freer from the influences of partisan politics. Many of them sit in the larger cities, but by no stretch of the imagination can they be listed as municipal courts. They pass upon matters originating in every part of the state, their expenses are paid from the state treasury, and their judges are chosen by the people of the state or appointed by the governor.

Selection and Removal of Judges

Much controversy has arisen of late as to the proper method of selecting judges. Some persons argue that they should be elected, in order to keep them closely in touch with popular sentiment. A judge who knows that he must come up for re-election in a few years, it is said, cannot afford to ignore public opinion. Those who favor appointment reply, with reason, that about the only opinion an elected judge need regard is the opinion of the party boss who is fairly certain to control the next election. For everyone knows that popular elections, so called, seldom express the wishes of the populace, and that under the elective system men are chosen as judges who have no qualifications for their work. Of course, appointment by the governor or the mayor is not guaranteed to give better results. Many a mayor is likely to reflect the wishes of the man who dominates the party organization. In the long run, however, appointment will probably prove the better plan. It has been said time and again that appointment assures greater skill, while election gives better representation, and American experience seems to have proved the adage. Obviously, judges are skilled technicians, or ought to be. They should be experts, thoroughly trained in the law. The reasons which make it desirable to appoint the city engineer and the director of health apply with equal force to judges. They have nothing to do with formulating policies, and it is extremely unwise to force them to become politicians.

From time to time poor appointments may be expected. But public opinion must be educated to the point where it will register at the polls an emphatic disapproval of every

poor appointment by a city or state executive. The people cannot be expected to familiarize themselves with the qualifications of every candidate for judicial office, but in all probability they will know whether the courts are giving satisfaction—whether they are administering justice with impartiality and reasonable speed. In most large cities every man on the street knows that the magistrates' courts are synonyms for corruption and injustice. If his son or daughter runs afoul of the police, he wastes very little time with the technicalities of the law. He goes directly to his division leader, realizing full well that a word from the leader in the magistrate's ear will do far more than a careful presentation of the legal principles involved. To appoint magistrates instead of electing them would not at once put an end to this vicious system, but it ought to help. It would be a step in the direction of more concentration, greater simplicity, and increased confidence. The local bar associations might well assume a greater share of the responsibility, which they have already accepted in part, for keeping the public informed as to the kinds of appointments made to judicial office.

It has sometimes been suggested that the minor judiciary be appointed by the judges of the higher courts—perhaps by the chief justice of the supreme court, for example, with the approval of the judges of the appellate court. This plan has a number of practical objections. For one thing, it would place a tremendous burden on the higher court judges, and they already have more work than they can do properly. Then, too, it would afford the chief justice an opportunity to build up a powerful political machine of his own, and the temptation might prove too powerful for him to resist. Because of these or other reasons, the plan has never been tried in the United States.

Removal of judges should be made an extremely difficult procedure. There can be no such thing as an independent judiciary without reasonably certain tenure. A judge who knows that he may be dismissed at any time by the governor of his state or recalled without notice by the people is virtually certain to let that knowledge affect his decisions. He

will pay too much deference to the governor's wishes or to the passing gusts of public fancy, as the case may be. In all probability he will temporize when he should remain firm, or bear down heavily when he should be merciful. Those who favor some easy method of removal point out, with reason, the dangers involved in permitting any public official to be virtually free from popular control for a period of ten years or more. They contend that the result is likely to be a body of harsh, unyielding judges, out of touch with the people. This danger is not great. The decisions of the federal courts reflect popular opinion with surprising accuracy, yet federal judges are appointed for life, and may be removed only by impeachment. At any rate, one thing is evident: the judiciary must be independent. It must be permitted a clear field, free from any considerations except those related to the public welfare. And this goal can be achieved only by long terms and secure tenure. Whatever perils may lurk in such an arrangement, they cannot possibly equal the danger of political pressure involved in short terms and easy removals.

Special Courts

In most of the larger cities special courts have been created to handle special problems arising chiefly from the complexities of urban life. There are, for example, traffic courts, dealing with all cases of alleged violations of the motor vehicle laws. Chicago set up such a court as early as 1912. Prior to the establishment of special traffic courts, persons arrested for speeding or some similar offense were taken to the district police courts, and perhaps compelled to wait for hours in the company of hardened criminals until their cases were called. Moreover, the penalties meted out were by no means uniform. Some magistrates considered reprimands sufficient, while others imposed heavy fines. No attempt was made to keep a record of frequent offenders, so that a motorist was likely to escape as easily after the tenth violation as he did after the first, unless he happened to be so unfortunate as to appear before the same magistrate on numerous occasions. To some extent

the traffic court has checked these abuses, but in most cities it is so poorly organized as to fall short of maximum efficiency. A number of the largest cities have not even tried the plan. In Chicago, the more serious violations of the motor vehicle law are again tried in the police courts, the traffic court handling only minor infractions.[4]

A number of cities, of which Detroit was the pioneer, have succeeded in keeping many traffic cases out of the courts by setting up traffic bureaus empowered to collect "voluntary fines." When a violation occurs, the police officer who witnesses it gives the offender a ticket, directing him to report at the traffic bureau within a certain number of hours—perhaps thirty-six. The ticket contains a statement of the law violated and the penalty attached. The offender may then go to the bureau, admit his guilt and pay the fine, without ever coming to trial. Or, if he prefers, he may protest his innocence and await regular court action. A careful record is kept at the traffic bureau, so that repeaters may be weeded out from those who make their first appearance. Experience shows that the average motorist would rather pay a small fine than be haled into court. The system may possibly result in the punishment of some innocent persons who pay to escape the petty annoyance of a hearing before a magistrate. But certainly it has done a great deal to relieve the congested dockets of the municipal courts.[5]

Some years ago municipal courts held only day sessions. As a result a person arrested during the night hours was regularly forced to remain at the station house until the morning session of court, when a judge would pass upon the question of his release, fixing bail if necessary. In nearly all the larger cities there are now magistrates' courts sitting at night. The magistrates who preside over them have power to sign releases, of course, and to fix bail. These night courts have proved a potent factor in preventing the

[4] Granvyl G. Hulse describes Chicago's traffic court in an article entitled, "Chicago's Disposition of Street Traffic Violations," *National Municipal Review*, August, 1927.

[5] For an account of Detroit's "Violation Bureau," see the article by S. E. Rose in the *National Municipal Review*, March, 1925.

arbitrary detention of persons who have violated no law, or have merely broken some minor ordinance.

There is a general feeling that women and children ought not to be tried in the same courts and during the same hours as men, but that separate provision should be made for them. With regard to women offenders relatively little has been done. A few of the great cities have women's courts, presided over by judges whose special training or experience presumably fits them to handle the problem of the woman criminal. To these courts female probation officers are attached. In most municipalities, however, no separate women's courts have been established. Instead, an attempt is usually made to adapt the existing courts to the needs of the woman offender.

Almost everywhere children are given separate treatment. Chicago led the way in 1899 with the establishment of a juvenile court, and most other large cities have since fallen into line. These children's courts are particularly significant, because they operate on an entirely new principle. The boy or girl brought before a juvenile court is not on trial in the ordinary sense of the word. There is no formal pleading. In fact, almost all the usual formalities are discarded, and in their place is a highly informal procedure. The "trial" is in the nature of an inquiry. Its purpose is not only to find out that a boy stole a watch, for example, but why he stole it. The judge examines all the facts of the case. He investigates the boy's home environment, his training—in short, his whole background. With all these facts at hand he is in a position to determine what ought to be done from the boy's standpoint, and also from that of society. If the parents are respectable, and it is merely a case of bad companions, the whole trouble may be solved by giving the lad a severe reprimand and returning him to his father and mother. Perhaps an orphan boy without adequate education should be sent to some training school where he would be fitted to earn an honest living. As a last resort, of course, there is always the state reformatory. But every effort is made to keep children out of the reformatory, so that they will not be labeled

irrevocably as criminals before they are old enough to comprehend the full import of the word.

The principle of the juvenile court is highly suggestive. It points the way to a much needed reform in the method of handling adult criminals. For many full-grown men and women, especially among the criminal class, have only the intelligence of children. Their bodies have continued to grow long after their minds have stopped. The proportion of subnormal persons inside our prisons is far higher than the proportion on the outside; of that there can be no doubt.[6] Yet in many cities we continue to treat our adult criminals as fully responsible and punish them accordingly, unless they are admittedly insane; while we recognize that children have not yet reached the stage of mental development where they can be held fully accountable for failure to play the game as society has defined it. There should be a psychopathic clinic in every city, where the personality traits of criminals could be expertly studied. And those with the minds of children should then be treated more like children than responsible men and women.

Among the most serious problems which the law must solve are those connected with the family—disputes between husband and wife, involving in all probability the question of support, and perhaps separation or divorce, plus the custody of children; trouble between parent or guardian and child; and the matter of illegitimacy. These problems are handled today by some form of family court in virtually every large city of the United States. New York, Philadelphia, Chicago, Boston and a number of other metropolitan centers have given such courts broad powers, but many of the smaller communities have been unwilling to give adequate authority. Following the modern trend, procedure is usually quite informal. The husband and wife, if the controversy is between them, sit at the same table with the judge, and talk matters over. First of all, an attempt is made to effect a reconciliation. Failing that, the judge works out a rational plan which may include separa-

[6] See E. H. Sutherland's *Criminology* (Lippincott, 1924), pp. 106-10.

tion and provision for alimony, or any one of a half dozen other alternatives. A wise, tactful, experienced judge is able to induce a surprisingly large percentage of the couples who come before him to patch up their differences. There is no certainty, of course, that such reconciliations will be permanent, but many of them are. It is only common sense to say that the judicial machinery of the state should be used in an effort to keep man and wife together. It can be used readily enough to separate them.

In every large city thousands of disputes arise during the course of a year which involve only trivial amounts—perhaps ten or twenty dollars. A storekeeper may be unable to collect for groceries already delivered and consumed; a boarding-house keeper may have a lodger who refuses to pay for property destroyed; a worker may be denied the wages he has earned. In such cases there is no adequate redress under traditional judicial procedure. Many small debts go unpaid because the ordinary process of collecting them through legal channels is too expensive, too cumbersome, or too uncertain. To correct this condition of affairs, small claims courts have been set up in Chicago, Cleveland and a number of other cities, either as separate courts or as branches of already existing municipal courts. Their jurisdiction extends to claims below thirty-five or fifty dollars, or even two hundred dollars, as in Chicago. Court costs are abolished, or else reduced to a merely nominal sum—seventy-five cents or a dollar. The procedure is so informal that lawyers become unnecessary. The litigants talk over the matter with the judge, and frequently they are able to reach an amicable agreement, making it unnecessary to enter a formal judgment. By means of the small claims courts the judicial machinery is greatly speeded up. It is actually possible for one judge to handle more than one hundred cases a day.

Defects of Our Legal System

The legal system of our cities, especially of our larger cities, is totally unsuited to their needs. It breeds injustice and consequent dissatisfaction. That is the virtually

unanimous testimony of those who know it best. Elihu Root expressed the views of prominent members of the bench and bar when he said: "The condition in which we find ourselves is that, in varying degrees . . . calendars are clogged, courts are overworked, the attainment of justice is delayed until it often amounts to a denial of justice, the honest suitor is discouraged, the dishonest man who seeks to evade his just obligations, is encouraged to litigate for the purpose of postponing them. Such a condition is not sporadic and occasional. It is continually recurrent."[7] The failure of our courts to function properly in the great metropolitan centers need occasion no surprise, for the American court system is not designed to meet urban needs. It is simply an expansion of the system organized more than a century ago to fit the requirements of a pioneer country, self-reliant, overwhelmingly rural, and habitually law abiding. For the most part it is the structure of a bygone day, with a few more judges added, a few more courts set up, but its essentials unchanged.

As the cities grow, an attempt is made to keep up with the increasing volume of litigation by creating more judgeships. But this remedy does little more than scratch the surface. The defects in our modern urban judicial organization are deep-rooted, and they cannot be so easily cured. For one thing, uniform organization and procedure are entirely lacking in most cities. Some courts are overworked, their dockets containing cases not likely to come up for months or even years, while others have little to do. Yet very frequently no provision exists for transferring cases from one court to another. Within the same city ten or a dozen judges, presiding over different courts, may have jurisdiction over the same matter. In Philadelphia, for example, a person who desires to bring suit for an amount less than one hundred dollars has his choice of thirty-four distinct tribunals, all unrelated, all lacking co-ordination. Conditions are much the same nearly everywhere. The only way to solve the problem effectively is to create in every large city a unified municipal court, having original juris-

[7] *Addresses on Government and Citizenship*, p. 433.

diction over all matters, civil or criminal, arising under state law or municipal ordinance. Such a court should have numerous divisions—traffic, domestic relations, small claims and the like, and it should have as many judges as might be considered necessary to handle the volume of litigation. But every phase of the work should be under the direction of one man, the chief justice, who should assign his associates to various phases of the work, bearing in mind their special qualifications. Cases should be transferred from one judge to another whenever necessary. All the judges of the court, sitting as a body, should make new rules of procedure and modify rules already existing as occasion might arise. A new and badly needed element of flexibility would thus be added to the judicial system, and for the first time responsibility would be fully concentrated. Such a court would be simply the application of sound principles of government to the judicial organization of American cities. Except in very trivial matters, an appeal to the higher courts of the state should be regularly permitted. So called "unified" municipal courts have already been set up in New York, Chicago, Detroit and a number of other cities, but they lack some of the essential characteristics of the ideal court just described. The Detroit municipal court does not have civil jurisdiction, for example, and in Chicago the municipal court has concurrent jurisdiction with other courts established by state law.

Delay Is a Serious Defect

One of the chief defects in our judicial system is the lapse of time before cases are finally settled. Long delay may satisfy some members of the legal profession, but certainly it does not satisfy justice. Civil suits are compromised on the theory that it is better to take a little now than to wait for more at some distant day, when the law has finally taken its tedious course. A man with a claim for back wages or for damages because of personal injury may be compelled to accept a fraction of what is justly due him, because he is badly in need of money. Thus persons

with ample funds but no sound legal defense are tempted to litigate in the hope of discouraging the opposition. In the field of criminal law delay is equally disastrous, for the professional criminal, the man who seriously menaces society, knows full well that by taking advantage of every technicality and forcing postponements for long periods, he can virtually destroy all likelihood of conviction. Some witnesses die or move away; others forget. If trial in one court brings conviction, appeal to another court may bring reversal. Delay is the friend of the guilty and the unscrupulous.

One reason for delay is the congestion of court dockets. The courts never seem able to catch up with the mass of work awaiting them. In the larger cities, especially, cases pile up at a rapid rate. There is on record the instance of a worker with a claim for ten dollars in back wages, who finally secured his money after one year and nine months of litigation.[8] A unified municipal court in every great urban center, with power to transfer cases when necessary, would help to relieve the pressure. Its small claims division would arrange for the amicable settlement of many disputes and decide the others without undue loss of time.

If properly organized, a unified court in each of the larger cities could also reduce delay by sweeping aside many of the legal technicalities which serve only to defeat justice. In most cities the courts are without adequate power to alter the rules under which they operate. These rules of procedure have been written into the statute books, and only the legislature can change them. No matter how antiquated they may be, no matter how unsuited to modern urban conditions they may prove, judges have no alternative but to follow them. There is no sound reason why the courts should not be authorized, within reasonable limits, to determine their own procedure. They know what is needed far better than the legislature, and they can more readily adjust their rules to changing conditions. This rule-making power is commonly given to the unified mu-

[8] Smith, Reginald Heber, *Justice and the Poor*, p. 18.

nicipal courts, and is proving an important factor in their successful development.[9]

Delay is often caused by an abuse of the right of appeal. A person guilty of violating state law has but to hire a clever lawyer, and technical reasons of every sort are likely to be found for carrying the case from court to court, in the hope of eventually defeating justice. In this connection it is worth while to cite the experience of one state. "During the course of ten years . . . the Supreme Court of Missouri reversed and remanded for new trial some twenty-eight cases by reason of technical defects in indictments or informations. By these decisions a number of murderers, rapists, bribe givers and bribe takers have escaped punishment and many of the retrials failed to result in convictions. It can be fairly stated that not a single one of the errors complained of for which any of these twenty-eight cases were reversed substantially affected the merits of the cases or deprived the defendants of any rights which thy should have enjoyed under a fair system of criminal procedure."[10] Of course, appeals must always be permitted. Before the state takes from a man his property, liberty, and perhaps even his life, it ought to be quite certain that no injustice has been done. If there is any reasonable doubt of guilt, if any likelihood exists that the sentence imposed was harsh and unwarranted, the matter ought certainly to be passed upon by a higher court. Fairness must not be sacrificed for the sake of speed. But it would be possible and highly desirable to deny any right of appeal on purely technical grounds, if it were quite clear that no injustice had been done and no constitutional rights sacrificed. In the more progressive states there is a growing tendency to frown upon technical appeals.

Uncertain Punishment

Far more serious than delay, in the criminal field, is the uncertainty of punishment. The man who deliberately

[9] See Chicago *v.* Coleman, 254 Ill. 338, in which the Illinois Supreme Court upheld the exercise of rule-making power by the municipal court of Chicago.

[10] *Missouri Crime Survey*, p. 359.

embarks upon a career of crime in the United States has a wide margin of safety. It is far more likely that he will escape punishment than that he will be compelled to pay for his misdeeds. This every professional criminal knows, and the average layman suspects. It has been estimated that in Cleveland, Ohio, for example, only about ten per cent of those who commit serious crimes are ever convicted.[11] Yet Cleveland is no worse off than other large cities. Small wonder, therefore, that the ranks of the professionals are always well filled!

When a crime is committed there is a strong probability that no arrest will be made. In 1924 only about one-twelfth of the burglaries reported in St. Louis were followed by arrests, and St. Louis had a better record in this respect than a number of other American municipalities.[12] Of course, such figures must be used with care. Some persons think that because only one arrest is made for every eight crimes reported in a certain city, seven-eighths of the criminals remain unapprehended. But this reasoning is not sound. A single professional criminal may commit a great number of crimes of every description, so that his arrest may clear the police department of a great many failures charged against it. On the other hand, several persons may combine to commit a single crime. Under such circumstances one arrest is not enough. It may be said conservatively that in the average American city the police are never able to fix the blame for the large majority of crimes reported to them. Obviously the courts are not responsible for this state of affairs, but it is mentioned at this point because it is the first defective link in the long, defective chain of criminal justice.

After a person accused of crime has been arrested, he is taken before a judge for a preliminary hearing. The purpose of this hearing is merely to determine whether there is reasonable probability of guilt, not whether guilt is certain. At this point a word from the ward leader may be of considerable value. A criminal with political influence often

11 Cleveland Association for Criminal Justice, *First Quarterly Bulletin* (1923), p. 10.

12 National Crime Commission, *op. cit.*, p. 6.

has little difficulty in convincing the magistrate that there is no valid evidence against him. If the magistrate decides to hold the prisoner for court, he usually fixes bail. The constitutions of most states guarantee the right of bail except in capital cases. The bail bond must be signed by the accused and, usually, by an owner of real property, who agrees to indemnify the state should the accused fail to appear at the proper time.

At this point the professional bondsman appears upon the scene. As a rule he is an unscrupulous fellow with little real estate, a great deal of greed, and considerable political influence. He is ready to sign the bail bond of anyone who is brought before a magistrate—for a sufficient consideration. The consideration he asks is outrageous; it may amount to one-third the amount of bail fixed by the court. But the habitual criminal who knows that strong evidence has been collected against him is glad to pay even this high price. He avails himself of the bondsman's services, is released, and at once proceeds to escape from the court's jurisdiction. Of course, the bondsman is then liable to the state for the amount of the bond bearing his signature. But this does not mean that the state can at once compel him to forfeit the property he advanced as security. Far from it. First a judgment must be declared against him. Then it must be enforced. It frequently happens that no action is taken. Over a period of years less than one per cent of forfeited bail was collected in Cleveland, and in Chicago more than five million dollars' worth of forfeited bail was outstanding in 1927. Moreover, judgment is sometimes obtained, only to reveal the fact that the property advanced as security is worth little or nothing. The Missouri Crime Survey uncovered one professional bondsman who in a single year signed six hundred and seventy thousand dollars' worth of bonds. The real estate which he offered as security for this stupendous amount of bail was assessed at $24,100, and was mortgaged for $32,500. Incidentally, he was liable at the time for ninety thousand dollars' worth of forfeited bonds![13] Clearly something is wrong with a sys-

[13] National Crime Commission, *op. cit.*, pp. 25-7.

tem which permits such conditions to exist. Generally speaking, the courts are not to blame. An occasional judge may honor the security offered by a powerful politician of his neighborhood, even though he knows it to be worthless. But even the judges whose intentions are of the best frequently accept worthless bail from unreliable persons. They cannot make an investigation of every piece of real estate submitted and of every person who offers his property as security. They cannot be expected to know that the same man is operating in half a dozen different courts of the state, offering the same house to every court to cover the bail of his "clients." A central bond bureau is needed, cooperating with the courts, and responsible for keeping an accurate record of property submitted, determining its value, and reporting promptly when defaults are made.

The magistrate who decides to hold a prisoner for court does not always fix bail. Instead, in very serious matters—murder, with a strong probability of guilt, for example—he may deny bail altogether and direct that the accused be held to await further action. When the offense charged is not so grave he may waive the requirement of bail and permit the prisoner to go free on his mere promise to appear at court when wanted. In many instances a magistrate is quite justified in relying on such a promise. A reputable citizen, brought into court because his motor car has collided with another vehicle, is not likely to get himself into further trouble by attempting to escape from the court's jurisdiction. But some magistrates flagrantly abuse their authority. They issue releases without question at the behest of the city boss and his henchmen, paying scant heed to the seriousness of the crimes charged or the strength of the evidence. When a powerful member of the dominant political machine is arrested he may reasonably expect to have a duly signed release awaiting him at the station house before his arrival. Evils of this sort can only be prevented, if at all, by a vigilant and well informed public opinion. It would work serious injustice to many persons if magistrates were stripped of their power to issue releases.

Even if a person accused of crime is held for court, he

still has many possible avenues of escape. Before he is brought to trial, the probability of his guilt must again be passed upon, though there is no valid reason why the work of the committing magistrate should thus be duplicated. In many states this second examination of the evidence is made by the grand jury, a body of citizens chosen usually by lot. Its finding of probable guilt is known as the indictment. The grand jury is so called to distinguish it from the smaller petit or trial jury. As a rule it has twenty-three members, but the number varies from state to state. Now it is quite obvious that no group of twenty-three men and women picked at random, presumably untrained in the law, without facilities for ascertaining all the facts in any case, will be able to reach an intelligent decision without guidance. The grand jury must rely upon the prosecuting attorney to present the facts which will enable it to judge whether a probability of guilt exists. So in the last analysis the decision is really made by the prosecuting attorney. He may fail to call any of the more important witnesses against the accused if for some reason, political or personal, he wishes the whole matter dropped. And as a rule the grand jury never knows that it has been duped. It has no way of finding out.

The question naturally arises: If the grand jury fails to perform any useful function, if it is nothing more than a "venerable nuisance," why should it be retained as a part of the mechanism of justice? An answer is not readily found. As matter of fact, about half the states have thrown the grand jury into the discard—either by abolishing it altogether or by permitting it to die a natural death from disuse. Its work is done by the prosecuting attorney, who prepares a statement of the evidence, known as an "information," for the approval of the court. In this way the state saves the time, trouble and expense of drafting twenty-three citizens and paying them for their services. Instances occasionally come to light of prosecuting attorneys who sell their influence for political power, or perhaps for cold cash. They sometimes permit criminals to go untried, though the evidence against them is overwhelming. Once in a while

they turn prosecution into persecution, and browbeat prominent persons into paying for the privilege of escaping trial on trumped-up charges. It is impossible to measure the extent of such practices, but one thing is fairly certain—the presence of a grand jury has never materially lessened them.

Under any system of criminal justice the prosecuting attorney is necessarily a very important person. He may aid the police in their search for evidence or he may fail to co-operate with them. He may see that a person accused of crime is brought to trial, or he may make certain that the whole matter is dropped before it reaches the jury. Before or after trial has begun he may enter a *nolle prosequi,* or notice that he does not intend to prosecute. He may plunge wholeheartedly into a case, or he may handle it in such a lackadaisical manner that acquittal is almost certain to follow. In the event of conviction he may recommend leniency or severity, and the court is often guided by his suggestions. From start to finish his influence is a factor of the greatest importance. Such concentration of authority in the hands of one person is not unfortunate. Concentration is one of the essentials of sound government. But it must not be forgotten that concentrated authority is desirable only because it makes possible concentrated responsibility. Some way must be found to make the prosecuting attorney responsible to the people. Direct election will not do it, for direct election only means appointment by the party boss. The prosecuting attorney's office is not sufficiently outstanding to justify the belief that the voters will carefully examine the records of the rival candidates and make their selection with any degree of intelligence. At the present time the public prosecutor is popularly elected in virtually all American cities, but it seems reasonable to believe that better results would be obtained if he were appointed—perhaps by the attorney general of the state. The attorney general could then be charged with the task of supervising his work, disciplining him if necessary and even removing him should occasion arise.

The criminal who finally appears before a judge and jury has no reason to despair. Though he has been arrested,

though a magistrate has held him for trial and he has been unable to jump his bail, though the grand jury has indicted him, and the prosecuting attorney has refused to *nol pros,* his chances of escaping punishment may still be good. A great deal depends on his attorney. For a criminal trial, as it exists today, is primarily a battle of wits. The shrewd, experienced lawyer, who knows how to appeal to the jurors and arouse their emotions, is likely to win his case regardless of the defendant's innocence or guilt. The judge, who might well be expected to dominate the whole affair, is nothing more than a presiding officer with very limited authority. The legislature has tied him hand and foot, and he can only insist that both attorneys abide by the rules. Should the rules fail to produce justice, there is little he can do. This is in sharp contrast to English procedure, which gives the judge substantial power to direct a trial and guide it to a proper conclusion.

Even after conviction, a criminal need not abandon hope. There is always the possibility of appeal, perhaps to two or three different courts. Should the decision of the higher courts also be adverse, his sentence may be suspended. Or, if finally sent to the penitentiary, he may be released in a short while by the parole board. Failing all these, he may still be successful in securing a pardon. From start to finish, the entire path of American criminal justice is crossed by one avenue of escape after another—avenues easily traveled by the clever criminal with plenty of money at his command.

The Plight of the Poor

The poor man without powerful political connections, however, is in a very different position. His arrest may be followed by detention for a long period, unless he is able to secure bail from a professional bondsman at an extortionate rate. He is not at once given the service of counsel, as provided by law, unless he knows enough to ask for it. In all probability he will be subjected to the sweating process popularly known as the third degree. The extent to which these objectionable practices are still followed is not gen-

erally realized by the public. The third degree is frequently used, not only to procure a confession, but to force a plea of guilty. The plea is then duly entered, "sentence is imposed and the accused man is on his way to the penitentiary. When one stops to consider the fact that more than half of the criminal cases in which punishment is imposed are cases in which pleas of guilty have been entered, then the possibilities of the method immediately become obvious."[14] Of course, not all poor persons accused of crime are thus unceremoniously sent away to prison. Many of them are brought to trial after a time, and if they are unable to provide their own attorneys, counsel is assigned to them by the court. In this way is satisfied the constitutional requirement that every man shall have the benefit of counsel. But substantial justice is not so easily obtained. In fact, the system of assigned counsel has broken down completely, except perhaps in murder cases. Almost any man accused of killing another can secure a competent attorney without difficulty, because of the wide publicity involved. But the poor man accused of burglary or some other less spectacular crime cannot hope for the services of a shrewd, experienced lawyer, capable of matching his wits successfully against the skill of the prosecuting attorney. He is more likely to be defended by some youngster just out of law school and anxious to put his training to the test. The battle of wits that follows is fairly certain to result in complete rout for the novice.

There are many poor persons arrested on charges of every sort, however, who do not even receive the doubtful benefit of assigned counsel. Instead they become the victims of the shyster lawyers who infest all the jails, looking for clients. No sooner has a person without funds and without knowledge of legal processes been locked up than he is visited by one of these vultures. The lawyer promises a speedy acquittal, describing his own talents in glowing terms. But first he must have the names and addresses of

[14] Miller, Justin, "The Difficulties of the Poor Man Accused of Crime," in the *Annals of the American Academy of Political and Social Science*, Vol. CXXIV (March, 1926), p. 66.

friends and relatives. These, he explains, are merely for the purpose of establishing the accused's good character. With the names and addresses at hand, he then begins to write letters soliciting funds. It is astonishing how much he may be able to collect in this way. A widowed mother may send her life's savings in the hope of rescuing her son. A wife may borrow in desperation money that it will take years to repay. On the other hand, letters and personal solicitation may prove fruitless. The defendant may be really destitute. In that case the shyster drops the whole matter without further ado, and goes in search of more profitable prey. Lawyers of this type often have working agreements with policemen and turnkeys, who recommend them to the poor, ignorant unfortunates temporarily within their power.[15]

In order to curb the evils connected with a system of assigned counsel and shyster lawyers, Los Angeles established a public defender's office in 1914. The public defender, like the public prosecutor, is an official who represents the state and receives his salary from the public treasury. His task is to represent persons accused of crime who have no money to hire private attorneys for their defense. Long before the trial he gives them valuable assistance. He advises them of their legal rights, helps them to communicate with friends, and sometimes succeeds in securing their release if the record shows that there is no real evidence against them. In short, he greatly reduces the tremendous handicap imposed by the law upon poor persons charged with crime. The creation of his office is an attempt to secure fair treatment for everyone, regardless of wealth. Some bar associations have tended to regard the public defender movement with disfavor, fearing that it might seriously interfere with the business of private attorneys. But it has made rapid progress notwithstanding. Minneapolis, San Francisco, Omaha, New Haven and at least a dozen other cities have public defenders. In New York City and else-

[15] See Walton J. Wood's article, "The Office of Public Defender," in Vol. CXXIV of the *Annals of the American Academy of Political and Social Science* (March, 1926), pp. 69-73.

where the defense of the poor against criminal charges is carried on by voluntary associations privately financed.[16]

It is not only when accused of crime, however, that the poor need legal advice and assistance. In many an instance a civil suit is necessary to secure justice. Yet lawsuits generally cost a great deal of money. Those without funds are seldom in a position to press their demands. The small claims courts have done much to remedy this state of affairs, but matters constantly arise which they are powerless to handle. A number of municipalities, therefore, led by Kansas City in 1910, have established public legal aid bureaus, where the poor may receive sound legal advice without cost. Legitimate claims are collected—by means of lawsuits, if necessary, though some friendly agreement can usually be reached without going to court. Those who have no legal remedy are told so frankly, and sometimes are helped in other ways.[17] At the present time legal aid work is largely in private hands. Only ten or eleven legal aid organizations, out of a total of sixty-six, are publicly controlled. But the public bureau has a certain prestige which the private agency lacks. As a rule it has greater financial resources. It can usually secure more hearty co-operation from other municipal agencies, such as the bureau of welfare and the department of law. So there seems little reason to doubt that eventually legal aid work will become a recognized function of every city government.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chap. XXIII.

Callender, Clarence N., *American Courts: Their Organization and Procedure,* New York, 1927.

Claghorn, Kate, *The Immigrant's Day in Court,* New York, 1923.

Cleveland Foundation, *Criminal Justice in Cleveland,* Cleveland, 1922.

Dillon, John F., *Commentaries on the Law of Municipal Corporations,* 5th ed., Boston, 1911, Vol. II, pp. 1115-36.

[16] See M. C. Goldman, *Public Defender,* 2nd ed.

[17] The legal aid bureau does not hesitate to solicit the help of charitable organizations for poor people who are badly in need of assistance but cannot secure it through legal channels.

Goldman, M. C., *Public Defender,* 2nd ed., New York, 1919.
Goodnow, F. J. and Bates, F. G., *Municipal Government,* New York, 1919, pp. 228-50.
Lou, H. H., *Juvenile Courts in the United States,* Chapel Hill, N. C., 1927.
Moley, Raymond, *Long Day in Court,* New York, 1929.
—— *Politics and Criminal Prosecution,* New York, 1928.
—— ed., *Missouri Crime Survey,* New York, 1926.
Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XX.
—— *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XXXII.
Smith, Reginald H., *Justice and the Poor,* New York, 1919.
Sutherland, E. H., *Criminology,* Philadelphia, 1924.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XXI.
Woodruff, C. R., ed., *New Municipal Program,* New York, 1919, Chap. XIII.

Aumann, T. R., "The Des Moines Conciliation Court," *Journal of the American Judicature Society,* Vol. XII, June, 1928.
Collins, C. W., "Pittsburgh Morals Court," *Journal of Criminal Law,* Vol. XII, 1921.
Day, L. B., "Development of the Family Court," *Annals of the American Academy of Political and Social Science,* Vol. CXXXVI, March, 1928.
De Forest, R. G., "Public Defender in Connecticut," *Journal of Criminal Law,* Vol. XVIII, February, 1928.
Hulse, G. G., "Chicago's Disposition of Street Traffic Violations," *National Municipal Review,* August 1927.
Macdonald, Austin F., "Public Legal Aid Work," *National Municipal Review,* September, 1925.
Marsh, P. W., "Detroit Succeeds Under a New Organization," *Journal of Criminal Law,* May, 1923.
Miller, Justin, "The Difficulties of the Poor Man Accused of Crime," *Annals of the American Academy of Political and Social Science,* Vol. CXXIV, March, 1926.
Olson, Harry, "Efficiency in the Administration of Criminal Justice," in the *Report of the New York State Bar Association,* 1917.
Orfilla, E. R., "Public Defender in the Police Courts," *Annals of the American Academy of Political and Social Science,* Vol. CXXXVI, March, 1928.
Paddon, M. E., Inferior Criminal Courts of New York City," *Journal of Criminal Law,* Vol. XI, 1920.
Pound, Roscoe, "The Administration of Justice in a Modern City," *Harvard Law Review,* Vol. XXVI, 1913.

Rose, S. E., "Detroit's Traffic Violation Bureau," *National Municipal Review,* March, 1925.

Saby, R. S., "Simplified Procedure in Municipal Courts," *American Political Science Review,* Vol. XVIII, 1924.

Wood, Walton J., "The Office of Public Defender," *Annals of the American Academy of Political and Social Science,* Vol. CXXIV, March, 1926.

Volume CXXIV of the *Annals of the American Academy of Political and Social Science,* March, 1926, is devoted entirely to the subject of legal aid work.

CHAPTER XIII

NOMINATIONS AND ELECTIONS

"GOVERNMENT by public opinion" is a popular phrase in a democracy. Policies of state are presumably dictated by the people, and their preference is supposed to determine the selection of public officials. But public opinion is a very vague thing indeed. It is difficult to measure with any degree of accuracy. Whenever one group of leaders appears, declaring that popular sentiment demands a certain course of action, there is almost certain to be another group shouting loudly that the public really wishes something entirely different. What the people actually desire may not be known until election day, and possibly not then. As Richard S. Childs pointed out years ago, "We are not governed by public opinion, but by public-opinion-as-expressed-through-the-pencil-point-of-the-Average-Voter-in-his-election-booth. And that may be a vastly different thing."[1] Election day may find the people totally unable to express their real preference. They may be asked to choose between two party nominees who are equally objectionable, or to fill so many offices that intelligent voting becomes impossible. Fraudulent practices may nullify their choice. It is highly important, therefore, to have an election system which will encourage the voters to choose intelligently and at the same time reduce the likelihood of election frauds.

The Caucus

Before the final election there must be some sifting of the candidates, either by the party leaders or by the voters themselves. Nominations must be made, so that the ballot will contain only the names of those men who are assured

[1] "The Short Ballot," *The Outlook*, July 16, 1909.

of some support. During the early days of American history, however, prior to the Revolution and for some years afterward, no formal nominating procedure was followed. Instead, leading townsmen would get together and agree upon suitable candidates, making their selections with slight reference to public sentiment. Their meetings were known as caucuses, and for many decades this caucus system continued to dominate American political life. Everywhere it was much the same. Writing of Boston in 1763, John Adams reported that "the Caucus Club meets at certain times in the garret of Tom Dawes, the adjutant of the Boston regiment. He has a large house, and he has a movable partition in his garret which he takes down, and the whole club meets in one room. There they smoke tobacco till you cannot see from one end of the garret to the other. There they drink flip, I suppose, and they choose a moderator who puts questions to the vote regularly; and selectmen, assessors, collectors, fire-wards, and representatives are regularly chosen before they are chosen in the town."[2]

The Convention System

There came a time, however, when the masses of the people began to demand a larger share in the selection of public officials. By 1835 white manhood suffrage had become universal, and thousands of people who had no part in the action of the caucus were forced to ratify its choices at the polls—or stay at home. Moreover, the era of unsalaried public service was virtually at an end. In nearly all the larger cities public office carried with it a compensation worth fighting for. Finally the "parlor caucus," or meeting of the leaders, was abandoned, and in its place was substituted a different method of nominating candidates—a method intended to prevent selection by a little group, and put control in the hands of the people. On its face, the new plan was certainly more democratic than the old. It was intended to give every voter, provided he belonged to some political party, a share in the nomination of

[2] *Life and Works of John Adams*, Vol. II, p. 144, quoted by Robert C. Brooks, *Political Parties and Electoral Problems*, p. 235.

candidates. This emphasis on party membership is not surprising, for party organization was highly developed in the United States by 1835. In the smaller municipalities, all the voters of each party were supposed to get together and make their nominations. Their meeting was still known as the caucus. But it differed radically from the caucus of earlier days, for it included, at least nominally, every member of the party. Arrangements of this sort were obviously too cumbersome for the larger cities. No hall could be found large enough to accommodate all those acknowledging allegiance to one or the other of the major parties. No group so unwieldy could hope to discuss rationally the merits of rival candidates. So in New York, Boston, Philadelphia and other growing metropolitan centers the party members of each neighborhood met in caucus, electing delegates to city-wide conventions. Candidates for council were usually chosen by the neighborhood caucus; aspirants for the mayoralty or the city treasurership were selected at the convention. In time the convention plan was adopted by all the larger cities, and it was also used for filling state and national offices. Until the end of the nineteenth century it remained the accepted method of nominating candidates for public office.

Like so many political devices, however, the convention system never worked as it was supposed to. In every city it speedily fell into the hands of a group of political leaders and their henchmen, who proceeded to use it to further their own purposes. The caucuses which nominated councilmen and named delegates to the conventions were supposed to be open to all members of the party, but in reality they never were. Only those who could be trusted to do the bidding of the boss were certain of making their votes effective. A revolt of more independently minded men could be prevented or rendered ineffective in many different ways. For one thing, the place selected might be too small to accommodate all those who wished to attend. In that case it was quite certain that all the ward workers and their friends would arrive hours in advance, leaving the independents to make futile protests outside the door.

More often than not, saloons would be chosen, partly to discourage the respectable elements of the community and partly to add a touch of good fellowship to the proceedings. There were many occasions when the party leaders "forgot" to announce the time and place of caucus meetings, though in some manner their friends secured all the necessary information. Once in a while, however, the independents managed to arrive at the proper time and place, only to be menaced by gangs of rowdies especially imported for the occasion. Even if they managed to get inside the caucus room, it was extremely unlikely that they would be able to accomplish anything. For the presiding officer would certainly be a member of the dominant faction, careful to block any move that might menace the control of his friends. He would refuse to recognize independent speakers, and when necessary would encourage dilatory motions. And finally he would appoint the tellers to count the votes cast. Under the circumstances the better element had no chance. Conditions were the same in both of the major parties.

The Direct Primary

The immediate result was a considerable quantity of legislation intended to reform the convention system. Many states provided that public notice of all party caucuses and conventions must be given sufficiently in advance, and that all duly registered party members must be permitted to attend. Heavy penalties were provided for violations of these laws. Yet the boss and his cohorts almost invariably managed to retain control, and the more respectable members of the party finally gave up in disgust. Men began to ask one another whether it would not be possible to find some more direct method of making nominations, which would insure a greater measure of popular control. The answer given to that question was the direct primary, first tried in Wisconsin in 1903, and now used, at least for certain offices, in forty-four states. Under the old plan the voters of each party met as a body and indicated their choice. That, at least, was the theory. To a

large extent they were governed by the rules of the party. But today, under the direct primary system, they go to the polls one by one, and express their preferences as individuals, rather than as a group. They are governed for the most part by the rules of the state.

In order to elect a candidate to public office, therefore, the voters must take two trips to the polls. The first visit is for the purpose of making nominations. There may be a great many names on the primary ballot, for any person may have his name printed as a candidate by merely securing the signatures of a few voters to his petition, and filing it with the proper authorities, perhaps also paying a small fee.[3] Out of the whole number of candidates, however, a few are selected, and they then become the nominees who will be listed on the ballot at the final election.[4] Everything is done under state law, from the printing of ballots to the counting of votes. The state supervises the conduct of primaries as rigorously as it directs the general election that follows. Informal caucus and convention are thus displaced by formal election machinery.

Many cities refuse to recognize political parties in local nominations and elections. They permit any qualified elector to cast his vote at the primary as well as at the final election, regardless of party membership or the lack of it. Party designations do not appear on the ballot. This is done to prevent national issues from claiming the center of the stage and blocking an intelligent discussion of local problems, as they so often do. When a candidate for mayor runs on the Democratic or Republican ticket, he views with alarm the unwise appointments of a Republican president, or points with pride to the achievements of a Republican Congress, as the case may be. He declares that

[3] For an analysis of the variations in different states, see Edward M. Sait's *Political Parties and Elections*, p. 392 et seq.

[4] Quite frequently, however, a candidate defeated at the primary for the Republican or Democratic nomination manages to get his name on the ballot for the ensuing final election by posing as an independent or a representative of some new party formed on the spur of the moment to further his interests. A few states have recently amended their primary laws to prevent such sudden shifting of allegiance.

his purpose is to support the president—or oppose him. He voices his unalterable belief in free trade, or protection. And the voters respond to appeals of this sort by voting according to their national party affiliations, though they should know full well that the views of their mayor will have no effect on the nation's tariff policy, and that his support or opposition will in no way influence the national administration. The real issue in a city election is far removed from national affairs. It has to do with increasing municipal efficiency, preventing a further increase in the tax rate, or something of the sort. Yet it is usually relegated to a position of secondary importance by candidates and voters alike. National issues loom so large that they dwarf the less spectacular but equally important questions of local concern.

By printing the names of candidates on the ballot without party affiliation it is hoped to focus attention upon local issues, and divorce them entirely from national politics. Many times this result is actually achieved. In California cities, for example, local elections are usually fought out along local lines, without reference to Abraham Lincoln or Thomas Jefferson. But a number of municipalities which are non-partisan in name are very decidedly partisan in fact. For there is nothing to prevent the party organizations from indorsing their respective candidates and working as hard as ever for their election. Candidate Brown may be officially non-partisan, but every voter may know that he is the candidate of the Republican organization, and that a vote for him will help the Republican cause. The long list of non-partisan cities includes many of the great metropolitan centers—Detroit, Los Angeles, Chicago (for members of council only), Milwaukee, Minneapolis, Kansas City and many another. But in more than one of these municipalities non-partisanship is generally recognized as a concealing curtain. The Democrats and Republicans are still fighting it out backstage.

The effect of a non-partisan primary is to eliminate all but the two highest candidates for each office. The voters then choose between these two at the final election. The

charter occasionally provides, as in Chicago, Los Angeles, and Dallas, that any person receiving a clear majority at the primary shall be declared elected without a further contest, and thus the need for a final election is sometimes removed.

In those cities using partisan nominations and elections, two types of direct primary long competed with each other for popular favor. One of these—the closed primary—is now generally accepted. The closed primary is so called because the primary of each party is closed to everyone save its own members. When a voter goes to the polls, therefore, he is asked to declare his party allegiance—perhaps to give proof of his loyalty. He is then given the ballot of his party, containing the names of all persons who seek the party's nomination. Under the other type of partisan primary—the open primary, which has now virtually disappeared from the field of city government—a voter was permitted to participate in the primary of any party with no questions asked. Of course, he could not lawfully participate in more than one. He was not allowed to be both a Republican and a Democrat at the same time. First he was required to satisfy the officials in charge that he was a properly qualified elector, and then he was given the ballots of all the parties. Sometimes all the ballots were printed on a single sheet, in which case he marked the ballot of his choice and left the others blank. In other instances they were separately printed, and fastened together. He then marked, detached and deposited one ballot, putting all the others in the blank ballot box.

Some persons still object to the closed primary because it forces every voter to have a definite party allegiance or stay at home on primary election day. Many intelligent and well informed persons do not care to become definitely affiliated with any group or faction. They prefer to remain entirely independent, voting in each case for the candidates who seem to them best qualified. Under the closed primary system, however, they must declare themselves as partisans, or lose their right to vote until the final election. Since the nomination of the dominant party is

equivalent to election in many cities,[5] they may find themselves virtually disfranchised. Equally objectionable to great numbers of men and women is the fact that they must openly declare their party allegiance. They do not care to have it known how they usually vote.

The open primary, however, disclosed a far more serious weakness in practice, and that is why American cities generally abandoned it. It permitted the carefully organized members of one party to invade the ranks of the opposition, perhaps "capturing" the other party's primary. If the Democrats, for example, were quite well agreed upon a single candidate, while the Republicans were badly split, a great many Democrats found it to their party's advantage to become Republicans on primary day. Their strength was used to defeat the strongest candidate for the Republican nomination, or to secure the nomination on the Republican ticket of someone who would look after their interests. At some later election the circumstances might be reversed, and then the Republicans would employ similar tactics. And at the final election these Republicans or Democrats for a day would return to their normal allegiance. Raiding the other party's primary used to be a favorite sport among politicians in cities which made use of the open primary system.[6]

What the Primary Has Accomplished

Whether the direct primary has proved a better method of nominating candidates than the caucus-convention system is questionable. It has certainly placed a powerful weapon in the hands of the voters, if they care to use it. No longer can they be shut out from a stuffy, crowded room while

[5] In New York, for example, it is taken for granted that the mayor will be a Democrat. Philadelphia's chief executive is equally certain to be a Republican.

[6] Some forms of the closed primary are really quite open. In Michigan, for example, a voter may declare himself a Republican at one primary, and then become a Democrat at the primary of the following year. There is no effective way of challenging him. The situation is much the same in nine other states. As a result, the members of one party are virtually as free to invade the other party's primary as under the open system.

the party's nominations are made by a little group of men who represent only the boss. No longer can they be ruled out of order by a biased chairman, or overawed by a group of professional ruffians. They are free to go to the polls and express their convictions, with at least some assurance that their votes will be honestly counted. Should occasion arise, they have it in their power to overthrow the political machine. It must be admitted, however, that the masses of the people have shown no great interest. Most of them stay at home on primary election day, leaving it to the division leaders and their followers to cast the votes. In fact, it is a matter worthy of record when more than one-fourth of a city's eligible voters go to the polls at a primary election. Very seldom is citizen interest so great.[7] Nevertheless, the direct primary has a certain emergency value. It is a sort of political safety valve. Should the party leaders flout public opinion too brazenly, should they sufficiently inflame popular sentiment against their rule, they could be buried politically under an avalanche of adverse votes. Of course, the caucus-convention system is also based on the theory of popular control. But even when carefully regulated by law, it is further removed from the voters, and probably a little less responsive to public sentiment.

The direct primary has produced a greater number of candidates, and to some extent it has probably weakened party organization. Though the professional politicians are usually successful in nominating their entire ticket, as they have always been, there is a greater element of uncertainty in most cities. The independent—especially the wealthy independent—has a better chance of winning. In the old days of the caucus and the convention there was only one way to get votes. That was to secure the indorsement of the party leaders. Money might help to win their support, but without their backing money was useless. Under a primary system, however, it is possible to

[7] See the figures given in the *Annals of the American Academy of Political and Social Science*, Vol. CVI (March, 1923), pp. 139-40, 145, 171-2.

appeal directly to the people over the heads of the leaders. The people themselves do the nominating. An effective publicity campaign, therefore, may produce enough popular support to secure the nomination. But the publicity is essential, and such campaigns are expensive. The candidate who dares to challenge the party organization must be prepared to spend money lavishly for self-advertising of every sort. So the natural, inevitable result of the direct primary has been to increase enormously the totals of campaign expenditures.[8] It may be said accurately that the primary substitutes, to some extent, the power of money for the power of organization.

During the last few years there has been a strong public reaction against the expenditure of large sums in an effort to win public office. Laws have been passed limiting the amounts which might be spent, or specifying the purposes, or requiring publicity. They have accomplished very little, however, for they are easily evaded. Each candidate duly certifies his expenditures as required by statute, and feels that his conscience is clear because no other campaign money has passed through his hands. If more was spent in his behalf, it was without his knowledge—and without his consent, of course! So the great game continues, the game of controlling public opinion by means of well directed publicity campaigns that would put to shame most manufacturers who advertise nationally.

The primary system of making nominations is expensive for the government as well as for the candidates. It involves two elections instead of one, and every election calls for a large outlay. Polling places must be hired, unless public buildings are used. Election officials must be paid. Clerks must be employed to verify nominating petitions. The cost of a primary election is almost certain to be at least fifty cents per vote cast in any large city, and it may run as high as a dollar. This is not an insuperable objection, however. If the primary insured genuine popular

[8] In 1926 an investigating committee of the United States Senate found that in Pennsylvania more than two million dollars had been spent on behalf of three contenders for the Republican senatorial nomination.

control of elections, and resulted in the choice of better men, it would be worth every cent it cost. The people would be glad to pay the bill.

But there is no evidence that the calibre of candidates for public office has been materially improved. On the contrary, most students of the question agree that the men who seek and win election today are quite as incompetent, quite as deficient in ability—and sometimes in honesty—quite as unrepresentative of the best in American life as those who were formerly nominated by convention or caucus.[9] Frequently they are the same men, grown a little older, but still masters of the processes whereby public office may be gained. And the newcomers who have joined them are mostly of the same stripe.

A serious objection to the primary system is that it increases materially the burden of the average voter. He is now asked to go to the polls twice as often as before, and to become acquainted with the virtues of many times the number of candidates. Small wonder that he loses patience and stays at home! For the patience of most citizens is easily exhausted when matters of state are involved. The less they are asked to do, the more likely they are to perform the tasks expected of them. Sound governmental reforms, therefore, must be designed to reduce citizen duties, instead of multiplying them. Government must be simplified, and not made more complex.

Nomination by Petition

The direct primary has proved so unsatisfactory as a means of nominating candidates that numerous attempts have been made to find some better plan. In a few cities nominations are made by petition. Any person desiring to have his name placed on the ballot at the general election must prepare a petition and have it signed by a certain number of qualified voters—exactly the same procedure as if he were merely a candidate for nomination, except that more names are generally required. But the usual

[9] See Edward M. Sait's summary in *American Parties and Elections*, pp. 419-20.

nominating process is eliminated. The petition with the proper number of signatures is the equivalent of nomination. Party designations are omitted from the ballot. In Boston, where this plan has been in operation for a number of years, three thousand names are required on the nominating paper for the office of mayor, and three hundred in the case of candidates for council. Formerly these figures were still higher. It is a common belief everywhere in America that a large number of signatures should be required, in order to prevent a great horde of ambitious candidates from putting in an appearance and literally swamping the ballot. But in England, where nomination by petition is the rule, the candidate for parliament need secure only nine signatures in addition to his own, yet prospective members of parliament are not unduly numerous. It often happens that a seat goes uncontested. There is, however, a rule in England which doubtless tends to eliminate some persons who otherwise might like to try their luck at public expense. Every parliamentary candidate must make a deposit of approximately seven hundred and fifty dollars at the time his name is placed on the ballot. If he polls as much as one-eighth of the total vote, his money is returned to him. Otherwise it is forfeited. Some such arrangement might be tried in the cities of the United States, for the requirement of several hundred or several thousand names on every nominating paper has proved quite unworkable. Names are often forged without the slightest compunction, and many persons sign who have no legal right to do so. Yet thousands of false or disqualified signatures remain undetected because city officials have neither the time nor the inclination to examine them all carefully. The task of checking many thousand names and addresses would be stupendous, and in most cities it is not even attempted. Moreover, the requirement of three thousand names—or thirty thousand, for that matter—is no barrier to the candidate with sufficient funds at his command. He can readily procure the services of professional canvassers who will agree to furnish him with any number of signatures he may desire, at so much per signature. It is

merely a question of visiting enough houses, for some people will sign any paper presented to them.

Preferential Voting

In American elections, the candidate who receives a plurality of all votes cast is usually declared elected.[10] As a rule this system results in minority choice, for it is not often that an aspirant for public office displays greater strength than all his opponents combined. A number of cities, therefore, have tried to find some way of insuring genuine majority choice, though without marked success. Most common is the scheme of preferential voting known as the Bucklin or Grand Junction plan, because it was invented by James W. Bucklin and first adopted by Grand Junction, Colorado, in 1909. The names of all the candidates for an office are printed in a single vertical column, and to the right are other columns, labeled "First Choice," "Second Choice," and "Third Choice." The voter is then directed to express his preferences by means of crosses. He may indicate one first choice, one second choice, and as many third choices as he sees fit. Any candidate receiving a majority of first choices is at once declared elected, for the purpose of the plan—to secure the election of a person who is really preferred by the majority—is accomplished. It seldom happens, however, that anyone receives a clear majority of first choices. So the first and second choices are added together. The election then goes to the candidate receiving a majority of first and second choices combined. If necessary to secure a majority, third choices are also added. It sometimes happens that a majority cannot be secured even by combining all three choices. In that case the person with the largest plurality wins. But the Bucklin system makes a real effort to secure a majority for some candidate.

Of course, the majority secured in this manner is rather artificial. When second and third choices are added, they

[10] A person is said to have a plurality when he has more votes than any other candidate. He has a majority when his votes exceed those cast for all the other candidates.

are given the same weight as first preferences. Clearly this is not in accord with the voter's intention. The very fact that he makes a first choice indicates that he prefers one candidate to all the others. To treat all his choices as equally effective is to distort the facts. Some other forms of preferential voting attempt to overcome this objection. In adding the preferences together they give three points to the first choice, two points to the second, and one to the third—or in some other way make the first choice especially effective.

But no variation of the scheme can prevent the possibility that a voter's second and third choices will be used to defeat the candidate he really prefers. So most voters simply ignore all choices except the first, marking their ballots as they would under the usual system of plurality elections.[11] The new method, therefore, does not usually affect the result of an election to any marked extent. It might almost be said that preferential voting attempts to accomplish the impossible. For its avowed purpose is to secure a genuine majority for one candidate, and only at rare intervals can an aspirant to public office be found who is really the choice of more than half the voters. No matter how popular a man may be, no matter how large a following he may boast, he can scarcely hope to match the combined strength of his rivals. Yet preferential voting sets out to establish a majority which does not in fact exist. It declares the person with a majority of combined choices to be the majority choice, when in plain fact more than half of the voters preferred other candidates. Proportional representation, which aims to secure minority representation instead of majority choice, has already been discussed.[12]

The Ballot

Something should be said at this point about the ballot. First of all, it should be short. The voter cannot reasonably be expected to choose intelligently among fifty or more candidates for a score of different offices. He should be

[11] Hoag and Hallett, *Proportional Representation*, p. 489.
[12] See pp. 195-206.

asked to fill only those offices which are outstanding.[13] Also, the ballot should be official and secret. Until the latter years of the nineteenth century the printing and distributing of ballots was left to the party organizations. The laws merely provided that white paper must be used, and sometimes specified the size. So each party prepared its own lists of candidates, and distributed them to voters outside the polling place on election day. Under such conditions fraud was easy. Several ballots printed on very thin paper, for example, could easily be folded to look like one. Or three or four might be concealed in the palm of the hand, and deposited in the ballot box by a clever fellow without detection. Ballot-box stuffing was a common practice. Trick ballots, containing the emblem of one party and the names of another party's candidates, were sometimes circulated among the unwary. Intimidation was also made easy, for it was an open secret how every man voted. From the time a voter received his ballot at the hands of party workers until he deposited it in the box, he was under constant surveillance. There was no private booth provided by law, where he could indicate his preferences unobserved. There was no means provided whereby he could "split the ticket," voting for some Democrats and some Republicans —unless he crossed off the names of some candidates and wrote others in their place. And that would be done only in full view of everyone sufficiently interested to watch. The system encouraged vote buying, for the man who purchased one or two hundred votes could remain at the polls and make certain that they were delivered. There was no danger that some disloyal henchman would accept a proffered bribe and then vote for the opposition.

In an effort to prevent the abuses of the old plan, the state legislature of Kentucky provided for a new type of ballot, which was used in the Louisville municipal elections of 1888. This ballot had been adopted by Victoria, Australia, thirty-two years before, so it came to be known in the United States as the Australian ballot. It was a blanket ballot, containing the names of the candidates of

[13] See p. 160.

all parties, printed at state expense, and distributed by state authorities, great care being taken to make certain that only one ballot reached each voter. The state guaranteed secrecy by providing curtained booths at the polling places. As used in Australia and for a number of years in Louisville, there were no party designations. The names of all the candidates for each office were grouped together, and a separate cross was required for every office to be filled. But it was not long before modifications began to appear. When Massachusetts adopted the Australian ballot, also in 1888, it printed after the name of each candidate his party affiliation. Then came an "improvement" from Indiana in the form of a party-column ballot. Each party was given a column of its own, containing the names of its candidates for every office. A cross at the top of one column would give a vote to every candidate of the party. The man who wished to vote a straight ticket, therefore, could do so by making a single mark, while the voter who preferred to divide his allegiance would be compelled to place a cross after the name of every candidate he favored—no small task in those days, before the advent of the short ballot movement. The party-column ballot encouraged party regularity, of course. It placed a heavy burden on the independent voter. For that reason it was favored by the professional politicians, and its use became widespread. Some cities tried the plan of placing the party emblem—usually an eagle for the Republicans and a rooster for the Democrats—at the top of the column, together with the party's name. This arrangement proved a real boon to the ward and division leaders whose loyal but illiterate followers were unable to read the names of the parties on the ballots. It now became necessary only to make certain that they could distinguish between an eagle and a rooster. No wonder that those interested in good government began to form "birdless ballot" leagues!

Despite these variations, however, it may fairly be said that the cities of the United States, almost without exception, today make use of the Australian ballot. For the thing that distinguishes it from other ballots is not the

arrangement of the candidates' names or the omission of party symbols, but the fact that it is *official* and *secret*. And official ballots secretly marked are now regarded as a matter of course by most American voters. Only in South Carolina has no approach to the Australian system been made. In recent years a great many cities have returned to the original form of the Australian ballot, grouping candidates by offices and eliminating all party designations. This type is usually called the "non-partisan" ballot, but sometimes it belies its name, as already indicated.[14] The parties are merely denied official recognition. In many cities, especially those of the East, they continue their activities unabated. In Australia and England, where a candidate's party affiliation is never indicated on the ballot, no one expects elections to be non-partisan. It is taken as a matter of course that the parties will continue to make nominations.

Voting Machines

Nearly three hundred cities, including New York, San Francisco, Seattle, Buffalo and Indianapolis, have eliminated the necessity for paper ballots by installing voting machines—devices which permit the voter to register his preferences by manipulating a series of pointers and levers. Across the face of the voting machine the names of the candidates are placed in rows, each name with its separate pointer. At the end of each row is a party lever. A single turn of this lever suffices to vote a straight ticket, but the person who wishes to split his ticket must turn down a pointer over the name of each candidate he prefers. While the voter is indicating his choices he is concealed from view by a heavy curtain. Not until the curtain is drawn back is his vote recorded, however, so that he cannot vote a second time without the knowledge of everyone in the polling place. The mechanism is so arranged as to prevent him from voting for too many candidates for the same office, or turning pointers the wrong way. Votes are automatically tabulated as they are cast, but the final result is not

[14] See p. 291.

known until the back of the machine is unlocked at the end of the day. Voting machines have proved vastly superior to paper ballots in many ways. They insure an accurate count, and a speedy one. Even in large cities the final result is usually known within an hour after the close of the polls. Tampering with the mechanism is virtually impossible, for all the vital parts are carefully locked. Spoiled ballots are eliminated. Secrecy is guaranteed, because curious election officials have no way of learning how any person voted. A serious objection to voting machines is their cost. Machines of the better grade cost nearly one thousand dollars apiece, so that any city adopting them must be prepared to make a considerable initial outlay. In the course of a few years, however, they are likely to pay for themselves, for they make possible a considerable reduction in election expenses. So greatly do they expedite voting that it is usually possible to reduce the number of polling places considerably. Fewer election officials are needed—only enough, in fact, to insure honesty, for the machines do all the work of counting the votes. Paper ballots need no longer be printed. It used to be said that voting machines were unsatisfactory because they might go out of order at any time, leaving the voters without means of expressing their preference. But this objection is seldom heard today.[15] Over a long period of years the best machines have proved their dependability. Most stories of their failure to work date back twenty years, before the experimental stage had been passed. Moreover, emergencies can easily be cared for by keeping one or two machines in readiness at some central point. The most valid criticism of voting machines is that they do not permit the use of proportional representation at their present stage of development.

Some years ago it was customary to hold city, state and national elections all on the same day. This practice encouraged the natural tendency of voters to decide local issues on the basis of their national party affiliations.

[15] See, however, the 4th ed. of W. B. Munro's *Government of American Cities*, p. 194.

Mayors and councilmen were regularly elected to office because they happened to wear the same party label as some popular candidate for president or United States senator. So in most states the legislatures tried to separate local issues from national, not only by removing party designations from municipal ballots, as already pointed out,[16] but by providing that local elections should be held on a different day, or in a different year, from state and national contests. This arrangement has undoubtedly reduced the influence of national politics on municipal elections. But it has had the unfortunate effect of doubling the voter's burden, and greatly multiplying the number of those who stay at home on election day.

Who May Vote?

Any discussion of voting naturally raises the question: who is entitled to vote? The answer is found in state constitutions and state laws, for the state exercises control over all elections—national, state and local. It fixes the qualifications of voters, whether the office to be filled happens to be president, governor or mayor.[17] Everywhere the qualifications are much the same. The age limit is always twenty-one, and citizenship is almost invariably required.[18] A certain period of residence within the state is necessary, ranging from three months to three years. One year is most common. Residence within the city and election district, usually for a shorter time, is also stipulated. Years ago, many of the states restricted the suffrage to property owners, but ownership of property is no longer a requirement.[19] Educational tests are becoming increasingly

[16] See p. 290.

[17] The federal constitution imposes only two limitations upon the power of the states to determine the qualifications of voters. It provides that the right to vote "shall not be denied or abridged . . . on account of race, color, or previous condition of servitude" (Fifteenth Amendment), nor on account of sex (Nineteenth Amendment). As everyone knows, the Fifteenth Amendment is virtually a dead letter south of Mason and Dixon's Line.

[18] Arkansas and Texas, however, still permit aliens to vote if they have declared their intention of becoming citizens.

[19] Except in Rhode Island, where a small property requirement still exists for local elections.

popular. About one-third of the states require every applicant to show that he can read and write English, read and interpret a portion of the Constitution, write his own name, or something of the sort. In Massachussetts, Connecticut, New York and some other states these literacy tests serve to debar from the polls those few adult citizens who have never learned to read and write—only a very small percentage of the whole. But in the South their purpose is quite different. There they are used as a part of the general scheme to disfranchise virtually the entire negro population. Thousands of negroes are illiterate, and the requirement of ability to read and write is vigorously enforced against them, though usually "forgotten" when uneducated white men appear. It is chiefly in the Southern states, also, that each voter is required to pay a poll tax of from fifty cents to two or three dollars—perhaps in lieu of property ownership. On election day few blacks are able to produce their poll tax receipts, and few whites are asked for theirs. A few northern states, of which Pennsylvania is a good example, also have poll tax requirements. As administered in Pennsylvania, the tax might prevent some poverty-stricken independent from voting. But it need not bother the worthy poor who are willing to vote for the candidates of the organization. There are always plenty of party workers on hand, ready to invest in "good government" at the rate of fifty cents per vote. Certain groups of persons—inmates of penitentiaries and asylums, for example—are denied the franchise in every state.

It is not enough merely to state the qualifications of voters. Some care must be taken to make certain that ballots are not cast by ineligible persons. In the early days of American history no such precautions were taken. Anyone who presented himself at the polls might vote unless his right was challenged, in which case the election officials promptly decided the matter. The system worked fairly well, for even the larger urban communities were little more than towns. Everybody knew everybody else. But as the towns grew to cityhood, and even swelled to metropolitan proportions, it broke down completely. The election

officials were no longer acquainted with the large majority of those who came to the polls claiming the right to vote, and as a rule they had no way of distinguishing reputable citizens from the unscrupulous "repeaters" who traveled from precinct to precinct, perhaps voting a hundred times or more before the close of the polls. Obviously some steps had to be taken to prevent wholesale fraud. The first step was not very effective. It consisted merely in the preparation of lists of eligible voters, to which election officials could refer. Usually the lists were carelessly made, and almost invariably they stood unrevised year after year. As a result election frauds continued almost unabated. Repeaters gave fictitious names which somehow had been inserted on the lists, or else used the names of persons who had long since died or moved to other parts. "Government by the graveyards," in Professor Munro's happy phrase, was the order of the day.

Personal Registration

In 1866 California and New York made a more thoroughgoing attempt to insure honest elections by providing for the personal registration of voters. Other states followed their example, and today personal registration is required in forty states, at least for the larger cities. Prior to election the voter must appear before a registration board and establish the fact that he possesses the necessary legal qualifications. His name is then entered on the list of eligible voters. In the rural districts, as a rule, this need only be done once. The voter is *permanently* registered, unless he moves to another district. But most of the larger cities make it a regularly recurring matter. In New York, Philadelphia, Cleveland, Pittsburgh and elsewhere the voter must register every year, while Chicago, Memphis and several of the west coast cities provide for biennial registration. The obvious purpose of requiring frequent personal registration—annual, biennial, or even quadrennial—is to make wholesale frauds extremely difficult. And there can be no doubt that the audacious practices of earlier days have been curbed in most cities. They have not entirely

disappeared, however. Philadelphia, with a very expensive system of annual registration, has the names of minors, dead men and non-existent persons on its official list of eligible voters.[20] The most serious objection to frequent registration is that it places a heavy burden on the electorate. Every man must make two trips to the polls in order to cast one vote. The first time he merely establishes the fact that he is still alive and has not changed his residence since the preceding registration day. On his second visit, one or two months later, he casts his ballot. The natural result of this system is to keep many persons away from the polls who might otherwise vote. Some consider it a useless bother to visit the polls before election day. Others simply forget to register, or find it impossible to be in the city on the registration days. Moreover, the item of cost must not be overlooked. It takes a great deal of money to keep the polls open two or three separate days prior to election, when four or more officials are needed in each precinct, each receiving a salary of eight or ten dollars a day. New York City's annual registration costs nearly seventy-two cents for each voter registered, and in some municipalities the figure is even higher.[21]

So objectionable has recurrent registration proved in practice that a number of the larger cities, including Boston, Milwaukee, Minneapolis, Omaha and Denver, have abandoned it in favor of permanent registration. This is the typical rural plan adapted to urban conditions. All the work is done at the central office of the registration commission, rather than at polling places in each neighborhood. No hardship is imposed on the voter, however, for he may register at any time during the year, instead of being compelled to take his choice of two or three days prior to

[20] See the author's article, "Philadelphia's Political Machine in Action," in the *National Municipal Review*, January, 1926. See also the report of the Senate Committee which investigated the Vare case. Senate Report No. 1858, 70th Congress, 2nd Session.

[21] Philadelphia tops the list with an expenditure of one dollar and thirty-three cents for each registered voter. See the report of the National Municipal League's Committee on Election Administration. This report was published as a supplement to the January, 1927, issue of the *National Municipal Review*.

election. When a person comes of age, secures his naturalization papers, or moves into a new election district, therefore, he goes to the commission's office and has his name enrolled on the official list of voters. Until he moves to another address he is then permanently registered. This plan gives maximum convenience to the voter. But if it is to prevent fraud effectively, it must be coupled with some system of purging the lists and keeping them up to date. In Boston and some other cities the police conduct a house-to-house canvass, striking off the names of those who have died or moved away. Elsewhere this work is usually done by the precinct registration officers. Sometimes death reports are secured from the officer in charge of vital statistics. In a number of cities a voter's name is dropped from the lists if he fails to vote for a certain period—perhaps two years. It then becomes necessary for him to reestablish his identity. The process of checking the lists is expensive but essential. And in most cities it has been found considerably cheaper than annual registration.

Under any system of registration there must be some means of identifying voters. The means most commonly employed is to make a record of personal characteristics, such as sex, age, weight, height, color of eyes and hair, and to ask a number of questions concerning place of birth, occupation, marital status, names of parents, avocation. Questions of this sort often irritate, and they seldom serve a useful purpose. For though the election officials have each voter's record at hand, and are supposed to make use of it on election day, they seldom do. Questions go unasked and descriptions pass unnoticed unless some one challenges an applicant's right to vote. By far the better plan would be to use signature as a means of identification, and require every voter to sign his name at election time, for purposes of comparison, before receiving his ballot. This is now done in at least four states. Fradulent voting is thus made almost impossible, except with the connivance of election officials. For expert penmen are not readily available in great numbers for the service of the political machine. The job of signing other people's names to election records is

not sufficiently lucrative. Incidentally, the men who do it are guilty of forgery as well as impersonation.

Non-voting

In recent years the growth of non-voting has claimed the attention of men and women interested in good government. And well it may, for most persons display a startling apathy to political matters. Half of the eligible voters, or more, stay away from the polls at almost any municipal election. It is a warm contest indeed that brings out sixty or sixty-five per cent of the eligible vote.[22] Those who cast no ballots are the independents, of course, for the political machine takes no chances, and always musters its full strength. The people who can be depended on to vote "right" will be induced to vote, even if they must be bribed by an automobile trip to the polls—or something more tangible. It is true that failure to cast a ballot does not necessarily indicate indifference. It may mean absence from home or illness. But usually it shows indifference to civic matters or disgust with politics.[23] For that reason the rapid spread of non-voting is a dangerous sign. It seems to indicate that the average citizen is ready to wash his hands of all civic responsibility, leaving the professional politicians unwatched and unchecked.

If that is really the attitude of the average citizen, he cannot fairly be censured. For he has learned from long experience that he cannot possibly make an intelligent choice. He is given a ballot containing long lists of names —candidates for scores of offices. He is asked to select coroners and magistrates and surveyors and an infinite variety of other officials. So when he marks his ballot he knows full well that he is voting blindly. The candidates he selects—either by chance or by accepting his party's indorsement—are almost certain to be mere cogs in the

[22] Even in presidential elections of recent years only about one-half of the eligible voters have gone to the polls, and the election of a president usually arouses much greater interest than the choice of a mayor and council.

[23] See the important study made by Merriam and Gosnell, "*Non-Voting: Causes and Methods of Control.*"

political machine. After a while he naturally begins to wonder whether he could not spend his time quite as profitably by remaining at home on election day. And honesty compels the admission that in all probability he could. The obvious remedy for this state of affairs is the short ballot. It will not remove overnight the habit of indifference. It will never entirely destroy inertia. But it will make intelligent voting possible, and lessen materially the voter's burden.

Absent Voting

The laws of almost every state [24] permit certain classes of persons to vote despite their absence from home at election time. Sometimes this privilege is given only to men in the armed service of the United States, though more commonly it is extended to all voters whose occupations make absence unavoidable. The procedure varies from state to state, but under the usual arrangement the voter who expects to be absent applies for a ballot some time before election. One is sent to him, and after marking it he returns it by mail to the proper official, together with an affidavit required by law. His signature on the affidavit serves to identify him. The purpose of absent-voting legislation is highly commendable, but its practical effect has been virtually negligible. In every city hundreds or even thousands of persons are away from home on election day, but only a handful ever exercise their privilege of voting *in absentia.*[25]

In recent years strenuous efforts have been made to stimulate the voter's sense of civic responsibility. The stay-at-home has been pictured as a slacker, ignoring a sacred duty of citizenship. He has been told that the important thing was to vote, regardless of how he voted. Men and women of all parties, and of no party at all, have united to emphasize the message, but they have accomplished little. For the average voter knows full well that nothing can be gained by merely visiting the polls and

[24] Connecticut and Kentucky are the only exceptions.
[25] See the figures given by E. M. Sait, *op. cit.*, pp. 554-5.

depositing a ballot. First he must understand what the issues are. He must know something about the candidates and their records. He must have at least a reasonable assurance that his vote will be counted. The only reforms likely to succeed in bringing out a permanently larger vote are those which render the voter's task less irksome and more obvious, or make honest elections more certain. Indeed, they are the only reforms that deserve to succeed. Nothing is to be gained by increasing the quantity of the vote without improving its quality. It would be possible, of course, to make voting compulsory, and impose heavy fines or even imprisonment for failure to go to the polls. A number of foreign countries, including Belgium, Czechoslovakia and Australia, have tried compulsory voting with varying degrees of success. The constitutions of two states of the American union, Massachusetts and North Dakota, authorize its adoption. But the idea is not likely to make a strong appeal to American minds. Voting has always been regarded as a privilege. To transform it into a legal obligation is to change our whole theory of popular government. And what, after all, is to be gained? More votes, of course, but not more intelligent voting or greater citizen interest. The man who goes to the polls only to escape a fine had better stay at home. His ballot has no real value.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chaps. VIII-X.

Boots, Ralph S., *Direct Primary in New Jersey,* New York, 1917.

Brooks, R. C., *Political Parties and Electoral Problems,* New York, 1923.

Capes, W. P., *The Modern City and Its Problems,* New York, 1922, Chap. V.

Evans, E. C., *A History of the Australian Ballot System in the United States,* New York, 1917.

Hall, Arnold B., *Popular Government,* New York, 1921.

Hormell, O. C., *The Direct Primary,* Brunswick, Me., 1923.

Merriam, Charles E., *American Party System,* New York, 1922.

Merriam, C. E. and Gosnell, H. F., *Non-Voting,* Chicago, 1924.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chaps. VII-X.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. I, Chaps. XII-XVI.

Ostrogorski, M., *Democracy and the Organization of Political Parties,* 2nd ed., New York, 1922, Vol. II.

Porter, Kirk H., *History of Suffrage in the United States,* Chicago, 1918.

Ray, P. O., *Political Parties and Practical Politics,* 3rd ed., New York, 1924.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XIV.

Rocca, H. M., *Nominating Methods,* National League of Women Voters, Washington, D. C., 1927.

Sait, Edward M., *American Parties and Elections,* New York, 1927.

Seymour, Charles and Frary, Donald P., *How the World Votes,* 2 Vols., Springfield, Mass., 1918.

Zuckerman, T. D., *The Voting Machine,* Political Research Bureau of the Republican County Committee, New York, 1925.

Beard, Charles A., "Political Parties in City Government," *National Municipal Review,* Vol. VI, March, 1917.

Crawford, E. G., "The New York Literacy Test," *American Political Science Review,* Vol. XVII, 1923.

Hull, Morton D., "The Non-Partisan Ballot in Municipal Elections," *National Municipal Review,* Vol. VI, 1917.

Volume CXI of the *Annals of the American Academy of Political and Social Science,* March, 1923, is devoted to the direct primary.

CHAPTER XIV

DIRECT LEGISLATION AND THE RECALL

Direct Legislation

The theory of direct legislation is readily understood. It is based on the obvious fact that the elected representatives of the people frequently do not represent them accurately or fairly. Many times the ordinances passed by a city council express only the views of the council's members, or of the city boss. All too often they are enacted with no clear understanding of popular sentiment, or with no regard for it. Bills favoring special interests at the expense of the entire city, or calling for large expenditures of money without adequate return, somehow manage to secure a favorable majority in council, and escape the veto of the mayor. To the reformer who believes that the masses are essentially honest, intelligent, and possessed of a deep sense of civic responsibility, there is but one way to correct this situation. That is to let the people frame and enact their own laws, and pass upon the desirability of the legislation enacted by their representatives. Then if the council neglects to pass a popular and badly needed ordinance, the voters may put it directly on the statute books. If the council deliberately enacts unpopular and unwise legislation, the people may veto its action. The purpose of direct legislation, therefore, is simply to make government more responsive to the popular will. With that purpose no friend of good government can quarrel, whatever he may think of the means proposed to accomplish it.

Direct legislation takes two forms—the initiative and the referendum. The two are commonly classed together, and cities adopting one almost invariably adopt the other. They are distinct devices, however, and must be considered separately. One is designed to encourage direct law making by the people; the other is intended to discourage too hasty

law making by council. One stimulates positive action; the other promotes more careful deliberation. One is a spur; the other is a check.

The Initiative

The initiative, of course, is the spur. Its specific provisions vary from city to city, but the differences are not great. When a number of persons wish to bring some matter in which they are interested before all the voters, their first step is to prepare a petition, together with a proposed ordinance covering their ideas. Signatures of voters must then be secured for the petition, the necessary number ranging all the way from three per cent of the electorate to twenty-five. Ten per cent is common. Sometimes, though rarely, a flat figure is fixed—five hundred or one thousand names, for example. The necessary number of signatures having been secured, the petition is then filed with the proper official, usually the city clerk, who is supposed to check it against the list of voters to see whether any ineligible persons have signed. Almost invariably some invalid names have been included—names of aliens and minors, for example. If there is any likelihood of careful checking, therefore, the experienced petitioner will secure several hundred signatures more than the minimum fixed by law. All the formalities having been satisfied, the proposed ordinance is then presented to the voters at the next election, unless council passes it in the meantime. Under some circumstances a special election may be called, but this is unusual. The ballot does not contain the entire proposal, of course. Instead it merely gives the bill's name and number, and asks whether it shall be adopted. The voter is expected to put a cross after *Yes* or *No*. If a majority vote in the affirmative, the bill then becomes law, exactly as if it had been passed by council, and with exactly the same binding effect.

Some historically minded persons like to think of the initiative as closely resembling the colonial town meeting. They compare the direct democracy of pre-Revolutionary days, when the people came together in the town hall and

enacted their laws, with the direct democracy of the present day, when the people, though they no longer gather in the town hall, still express their will directly without the necessity of relying on their elected representatives. But the analogy is faulty. For the town meeting afforded opportunity to discuss and compromise. It enabled every interested group to express its views, and suggest amendments to the original proposition. The initiative, on the other hand, permits no compromise, no change. The voters must take every proposal exactly as it is offered to them, or reject it in its entirety. They may really prefer it with some clauses deleted, or differently phrased. But there is no way for them to make their wishes accurately known. At the polls the answer must be either *Yes* or *No*.

The Referendum

In American cities there are several varieties of the referendum. One is the compulsory referendum, so called because it gives no choice to the council or the people. Certain matters—usually charter amendments, new bond issues, and questions of annexation—*must* be submitted to the voters for their approval, according to the state constitution or laws. Provisions of this sort have long been common. Today they are accepted as a matter of course, even by those who oppose the newer and more radical development of the popular referendum. For when it is proposed to change the fundamental conditions under which people live, whether by merging their community with another, materially increasing their liabilities, or discarding their charter and adopting a new one in its place, simple justice suggests that they be given a voice in the matter.

Then there is the optional referendum. In this case the option rests with council whether it will submit certain subjects to popular vote. If permitted to do so by the charter, council members are often glad enough to escape responsibility by letting the people make known their wishes at the polls. The popular vote may have no binding effect. It may be purely advisory. But at least weak-

kneed councilmen can point to it virtuously as an evidence of their respect for public opinion.

The third form of the referendum is by far the most important. It is the one usually associated with the initiative in the public mind. We are justified, therefore, in referring to it throughout the remainder of this chapter simply as *the* referendum. The other types are less significant, and far less controversial. This third and newest form might well be called the protest. It is a device which permits the voters to determine at the polls whether an ordinance passed by council shall become law. Certain types of legislation—emergency measures, for example—are everywhere exempted. When they have been duly enacted they go into effect at once, without waiting for an expression of popular sentiment. The question at once arises: What is an emergency measure? And the answer usually found in city charters is: Anything declared by council to be an emergency measure. Since council has the right to determine this important matter, it may at times pass highly unpopular ordinances, and effectively prevent the people from expressing their displeasure, by the simple process of declaring an emergency. Abuses of this sort are not common in most cities, however, for charters generally require a two-thirds or three-fourths council vote to transform an ordinary bill into an emergency measure. And in nearly every legislative body there is an effective minority which can be counted on to prevent gross violations of the spirit of the law. The mere fact that council occasionally abuses its power to define emergency legislation is no reason why it should lose that power. For genuine emergencies are certain to occur from time to time in the conduct of public business, and the laws required to meet them cannot be subjected to the delay of popular deliberation or the caprice of popular fancy.

City charters containing referendum provisions usually stipulate that no ordinance passed by council, other than emergency measures, annual appropriation bills, and perhaps a few other exceptions, may go into effect until a certain number of days after its enactment. The number of

days varies from thirty to ninety. During that period the people are given an opportunity to express any dissatisfaction they may feel. Procedure is much the same as under the initiative. First a petition is prepared, and then signatures must be procured. The number of names required for a referendum petition is usually somewhat higher than in the case of the initiative. Afterward the petition is filed with the city clerk, and the protested bill goes to the voters. At the next general election, or possibly at a special election, its fate is decided.

Direct legislation was imported into this country from Switzerland. The first large city to make provision for its use was San Francisco, in 1899, though the legislatures of several states[1] had authorized it for municipal affairs a year or two previously. It did not prove a popular adjunct to city government until 1907, when Des Moines borrowed Galveston's commission plan, and added the initiative and referendum as "improvements." Since then direct legislation has generally been regarded as an integral part of commission government, and more recently it has been associated with the manager plan. Provisions for its use are almost always found in commission and manager charters, and have undoubtedly helped to popularize the new schemes of government.[2] But there is no necessary relationship. The initiative and referendum function quite as well, or as poorly, under the older mayor-council plan. Commissions and managers owe none of their efficiency to the direct law-making power of the people. In fact, some few cities have adopted commission or manager charters without making provision for direct legislation. But they are outstanding exceptions. On the other hand, a large number of cities, particularly in the Middle and Far West, have combined direct legislation with mayor-council government. In this list are St. Louis, Detroit, Milwaukee, Los Angeles, San Francisco. The initiative and referendum have only one thing in common with the commission and manager plans, except that accident has commonly associated them: both

[1] Nebraska, South Dakota, Iowa, California.
[2] See Chaps. X and XI.

are movements begun in recent years for the purpose of securing to the people a more genuine control of their government. Analysis will show, however, that they attempt to obtain this control in very different ways.

The initiative and referendum have not been used to any unreasonable extent since first they made their appearance in the charters of American cities. The referendum, especially, has seldom been called into operation by the voters. Even the initiative has not generally been used to excess. In some municipalities year after year goes by without any attempt to set the machinery in motion. Other cities, of course, have formed the habit of referring all sorts of questions to the people on election day. In 1928 the voters of San Francisco were asked to pass upon sixty-one questions at a single election, in addition to choosing a large number of officials. A short time earlier the people of Denver were compelled to wrestle with eleven proposals, and ten questions were printed on the ballot at Grand Rapids.[3] But these instances are exceptional. Three or four questions a year is a good average for most cities. It may well be argued that three or four is too many, and that it would be advisable to encourage an even less extended use of direct legislation. But one thing is certain; in no city have the people given any indication that they intend to replace their elected representatives. Council will continue to function as before. In fact, its volume of business is likely to increase as municipal problems become more numerous and more complex. The initiative and referendum can serve at best only as occasional supplements to the work of the local legislative body, correcting its more obvious errors and bringing it somewhat more closely in touch with the popular will.

Arguments for Direct Legislation

The friends of direct legislation have advanced a number of arguments in its favor. Their claims, if borne out by the facts, stamp it as one of the most important reforms

[3] See E. L. Shoup's article, "The Initiative and Referendum in Thirty-Six American Cities," published in the *National Municipal Review*, Vol. XII, pp. 610-15.

of the century. These assertions, therefore, deserve careful consideration. They should be examined in the light of political theory and practical experience to determine whether they are valid. Most significant of all is the statement that the initiative and referendum take control of government away from the professional politicians, and put it where it belongs—directly in the hands of the people. At last, we are told, the people have come into possession of a device which will enable them to manage their own affairs, and set at naught the folly or knavery of their elected representatives. If council remains idle when important issues must be decided, the masses will decide them in their own way by initiating the necessary legislation. If council takes a false step, its error will be promptly corrected at a referendum election. All this makes pleasant reading, but it takes little account of political realities. For everyone knows that initiative and referendum petitions are not prepared and circulated by "the people." The work is done by some interested group which has without doubt already been bringing pressure to bear upon council. The group may be composed of civic-minded persons who are giving unselfishly of their time to further the cause of municipal betterment; it may be made up of professional reformers trying to foist some untenable scheme upon the unsuspecting public; it may be nothing more than a shield for predatory interests which are scheming to fatten their wallets at public expense. But a few persons always take the lead, whatever their motives. They determine what form the petition is to take. They are responsible for its exact phraseology. They go to the trouble of getting the required number of signatures. And under present-day conditions they may be virtually certain of procuring enough names if they are willing to spend sufficient money. In most cities are professional canvassers, prepared to obtain any number of names to any kind of a petition, at so much per name.[4] Their services are always at the command of the man with the check book. So at last the petition is prepared and filed, and the question is placed

[4] See p. 297.

on the ballot. Then begins the usual campaign of misinformation and misrepresentation. Every valid argument is met by a specious one. Every true statement is countered with a false. And the voters are asked to decide the question intelligently, weighing the arguments pro and con and separating the wheat from the chaff. The plain fact, of course, is that the task is too much for them.

It is often said that direct legislation stimulates civic interest. When council has full control of the city's policies, and the people have no very effective way of making their wishes felt until the next election, there is a natural slackening of public interest. Men and women will not waste their energy to form intelligent opinions on civic matters if their views carry no weight. But give them an opportunity to express themselves directly, and all will be different. Let them have a more effective part in the government, and they will inform themselves concerning municipal problems. They will take the trouble to make their desires known at the polls. So runs the argument. To what extent is it corroborated by the experience of the last quarter-century? Very slightly, if at all, it must be frankly admitted. Some few civic leaders may have been stirred to fresh interest by the possibility of appealing directly to the electorate over the heads of mayor and council. Some few voters may have devoted greater time and thought to the problems of government because of the opportunity to express at first hand their opinions concerning new proposals. But the vast majority seem to be no more deeply concerned with their government than before the introduction of the initiative and referendum. If anything, their interest seems to be diminishing. Non-voting is becoming increasingly prevalent. Men and women in ever-growing numbers do not even take the trouble to go to the polls on election day. Obviously, it would be illogical to blame direct legislation for this indifference. But it is equally absurd to credit it with stimulating civic consciousness on any large scale. The normal public reaction to the initiative and referendum is shown by the fact that the number of votes cast for candidates at an election is almost invariably much

greater than the number of votes for and against proposed legislation. About thirty per cent of the voters simply ignore the portion of the ballot which contains measures. The percentage is not always the same, of course; sometimes the people show almost as much interest in measures as in men, while at other times the difference may run to forty or fifty per cent. On the whole, it may be taken as axiomatic that when legislative proposals are submitted to the voters, a great many men and women will leave that section of their ballots unmarked. Either because they are indifferent to the course of municipal policy, or because they realize their incompetence to decide the important questions submitted for their judgment, they refrain from expressing opinions they do not have. As a result, most initiative and referendum questions are settled by a minority of the electorate. How strangely this fact—as plain as the election records of any city—contrasts with the claim that direct legislation stimulates civic interest!

Direct legislation is often advocated because it affords the friends of any reform an opportunity to put their proposal before the people in the exact form they desire. There are no riders, no delusive phrases which serve only to destroy the proposed measure's force. Every person who has had an opportunity to witness at first hand the working of legislative bodies can appreciate this advantage. For one of the favorite tricks of council or the state legislature is to emasculate popular proposals which it secretly dislikes but dares not reject. To give a concrete example: an independent member of council introduces a bill providing that all municipal employees shall be selected under the merit system. The other councilmen would like to prevent its passage, but have not the courage to vote against it. Columns in the newspapers have been devoted to its praise, and public sentiment has been thoroughly aroused in its favor. So the bill is amended in committee to permit department heads to employ without examination persons "who show exceptional fitness." The councilmen understand, of course, that the henchmen of the political machine will without exception be rated as men of exceptional

fitness. The author of the bill objects that in its new form it is meaningless. Other councilmen declare that the amendment is merely intended to preserve executive discretion. Some well-meaning people rally to the support of the bill as amended, believing it to be better than nothing. Many of its friends desert it, however, and its fate becomes a matter of conjecture—and general indifference. The masses of the people are not quite sure where to place the blame; and when the habit of party regularity seizes them at the next election they return to office the councilmen who have made an effective merit system impossible. Tragedies of that sort are commonplaces in the history of any city. But under a system of direct legislation there is less reason for them to occur. Every proposal appears on the ballot exactly as it has been drafted by its friends and in that form it is considered by the voters.

It is sometimes said that direct legislation produces more carefully drafted laws, with fewer ambiguities and greater attention to accuracy. Everyone understands, of course, that "legislation framed directly by the people" is only a phrase. The people do not frame laws. Even the little group of persons who sponsor a proposal are not likely to attempt the difficult task of couching it in the proper technical language—language that will reduce to a minimum the possibility of misunderstandings, and will be in harmony with the city charter and the state constitution and laws. Instead they usually place the burden on some private attorney. It is the private attorney, therefore, whose handiwork is contrasted with the legislative product of council, much to council's disadvantage. Friends of direct legislation point scornfully to the men who comprise the membership of our modern city assemblies, and ask whether it is not obvious that any intelligent, moderately successful attorney could do a better job than such second-rate politicians. As a matter of fact, the comparison is not fair. For the members of council, alone and unaided, seldom draft the provisions of any significant measure. They ask and receive the services of the city solicitor and his assistants. Besides, a large quantity of legislation is the product

of council only in the sense that council gives its consent. Many of the most important ordinances are conceived by the mayor and his department heads, whipped into proper shape with the aid of the law department, and given to some obliging councilman to introduce. They are understood to be administration measures, and are fairly certain of prompt passage if council and the mayor are in harmony. Otherwise they are likely to fare very badly. In the last analysis, therefore, the real comparison which must be made is between the skill of the municipal law department and the ability of the men who serve the backers of each new proposal. Which group does its work more thoroughly and accurately would be difficult to say. In all probability the honors are about even.

Objections to Direct Legislation

A number of serious objections to direct legislation have been raised. For one thing, it lengthens the ballot. Enlightened friends of good government have long pointed to the short ballot as the most promising reform in the field of public administration, and experience has emphasized the strength of their contentions. "I believe the short ballot is the key to the whole problem of the restoration of popular government in this country," wrote Woodrow Wilson. His words have been echoed time and again by leaders of public thought, for they have seen abundant proof that the short ballot concentrates responsibility, and lightens the task of the voter. Yet many of them, almost in the same breath, sing the praises of direct legislation. They fail to realize that little is gained, and something is actually lost, by taking names off the ballot and substituting proposed legislation. For the people's interest is greater in men than in measures, and their discrimination is keener. It is a sorry reform, indeed, which merely puts phrases in the place of men's names, keeping the ballot as long as before. It may well be argued, of course, that direct legislation is not used to excess—that in the average city it merely means the addition of three or four proposals at every election. But even then it means a somewhat longer

ballot, and a somewhat heavier burden on the voter. It is a step in the wrong direction.

Recent years have witnessed an increasing tendency toward scientific legislation. Laws and ordinances are less frequently the handiwork of ward politicians whose only interest is in their own re-election. Reference has already been made to the practice of permitting members of the administration to frame ordinances suited to the needs of their departments. Often these measures are prepared after consultation with experts in various phases of municipal administration. Not infrequently the traffic ordinances or the health code are based on the report of an outside technician called in by the mayor or the manager to make a careful study of local needs. Municipal research bureaus are consulted more and more by councilmen and department heads. There is an increasing recognition of the need for careful study of the highly technical problems of modern government. Running counter to this tendency is the movement to extend the scope of direct legislation. Its premises are unlike, and its conclusions are very different. The need for scientific law making is stressed by those who believe that the whole process of present day city government is complicated and involved; that important public questions can be decided only after a careful study of all the facts; and that the average councilman is not properly trained to formulate municipal policies without expert advice and guidance. The necessity for direct legislation, on the other hand, is emphasized by those who believe that government under conditions of modern life is really quite a simple matter; that any question of public policy can be decided satisfactorily after a cursory examination; and that the average voter is well qualified to decide the merits of the questions presented to him. Two more widely divergent views could scarcely be imagined.

Fortunately, the voters have not usually been given an opportunity to pass upon the more complicated and involved questions of municipal policy. As a rule they have only been asked to determine such matters as whether eight hours should be considered a day's work for city em-

ployees, whether municipal concerts should be given during the summer months, whether daylight saving should be adopted. But there have been a good many exceptions. The people have been called upon at times to decide whether there should be a new schedule of gas rates, whether funds should be forthcoming for the repair of the city water works, whether a different method of calculating debt reserves should be adopted, whether vocational schools should be established as part of the educational system. It is customary in some communities, when the experts cannot agree, to let the people settle the matter.

If the voters are to exercise their right of direct participation in the legislative process with any degree of intelligence, it is obvious that some means must be found of furnishing them with information about the measures submitted for their approval. Some cities require every proposal to be printed in at least two newspapers of opposite political faith prior to election; a few others merely provide for display at the polling places. But the large majority of municipalities rely on some form of publicity pamphlet to supply the electorate with the necessary knowledge. The pamphlet is issued by the municipal authorities. It always contains the text of each proposed ordinance, and usually arguments are presented pro and con. The arguments in favor of a measure are prepared as a rule by the group sponsoring it; the negative discussion may be framed by opposing interests or by some city official—or it may be omitted altogether. Sometimes the cost of preparing, printing and distributing the pamphlets is borne entirely by the city, and in that case it is necessary to limit the length of the arguments. Otherwise the advocates and opponents of every proposal would fight an endless battle of the inkwell, at the community's expense. Many cities, however, restrain the enthusiasm of reformers and would-be reformers most effectively by charging a considerable amount—usually several hundred dollars—for every page of printed argument.

The value of the publicity pamphlet is uncertain. It undoubtedly contributes something to the stock of civic knowl-

edge, but whether its contribution is worth the cost of printing is a moot point. The average voter consigns it to the waste basket after a cursory glance; of that there can be little doubt. The man or woman who aspires to civic leadership, however, takes it more seriously, and uses it as a textbook. The newspapers print the arguments in condensed form, and thus help to put them into more general circulation. But every publicity pamphlet has an inherent weakness which no amount of legislation can overcome. If it is long enough to present all the arguments clearly and forcefully it wearies the voter and destroys his interest; if it is so short as to hold the average reader's attention from cover to cover, it necessarily degenerates into glittering generalities. There seems to be no middle ground. For the voter desires his information in a phrase, and unfortunately slogans do not inform, however much they may inspire.

One of the objections to direct legislation is that the popular will is sometimes thwarted by the use of misleading titles. The entire text of a proposal never appears on the ballot, of course; it is designated merely by name and number. The name is prepared by the city clerk or some other official, and the manner in which it is phrased may have a great deal to do with the measure's success on election day. The voter who had not carefully read the newspapers or studied his publicity pamphlet might well be tempted to vote *yes* on the following question: "Shall the salaries of certain municipal officials be equalized?" But his reaction would doubtless be quite different if the question were presented: "Shall the salaries of certain municipal officials be increased?" As a rule the titles of proposed ordinances appear on the ballot carefully and accurately phrased, but every year furnishes its quota of trick titles, purposely worded to deceive the electorate.

To a large extent, direct legislation has been sponsored by the liberals and radicals. They have welcomed the opportunity to present their reforms directly to the people, instead of trying to influence that "stronghold of conservatism," the city council. The conservatives, for their part,

have fought bitterly against the introduction of the initiative and referendum. They have dreaded the coming of the day when the irresponsible masses would be able to introduce and enact any ordinance that might please their fancy, without regard for its effect upon the fundamentals of government. They have recalled the plight of ancient Rome, controlled by a dissolute rabble which voted unto itself corn and wine and games at the public expense; and they have prophesied a similar fate for America under direct legislation. But the passing of the years since the introduction of the initiative and referendum has brought vast relief to the conservatives, and keen disappointment to the liberals. For the masses of the people have shown their innate conservatism, and their unwillingness to accept untried experiments. On the whole, they have actually proved less liberal than city councils. When in doubt as to the exact meaning or the real merits of a measure, they have usually voted against it. For that reason the negative side of any question has an advantage at the polls.

Objection is sometimes raised to direct legislation on the ground that it is too expensive. It involves considerable cost to the public, as well as to those who sponsor initiative and referendum petitions. The signatures on petitions must—or should—be carefully checked as well as counted; publicity pamphlets must be prepared, printed, and sent to every voter; special elections must sometimes be held to decide important questions. All this may involve an outlay of several thousand dollars for every proposal voted on. Is the cost too great? The answer, of course, is that direct legislation is well worth every cent it costs if it makes any substantial contribution to effective popular government. But if it means nothing more than a multiplication of governmental machinery and an additional burden on the voter, it is a luxury the public can ill afford.

The Recall

The recall is a device for making public officials continuously responsible to the electorate. This end is accomplished by providing that at any time during the term

of an official—usually excepting the first three or six months—he may be removed from office by an adverse popular vote. The first step is the preparation and circulation of a petition, exactly as in the case of the initiative and referendum. The recall petition must set forth the reasons why its sponsors believe the official is no longer fit to serve the public. It must be signed by a certain percentage of the voters, the required percentage being quite large—usually about twenty-five, and running up as high as fifty-five in some Illinois cities. Then comes the election. Usually it is a special election, called solely for the purpose of determining whether the censured official shall be recalled—that is, removed from office. But if a general election is close at hand, the question of recall may also be decided at that time in most cities. Or the necessity for an election may be obviated by the officer's resignation. If he sticks by his guns, however, the question is placed upon the ballot: "Shall John Doe be recalled from the office of city commissioner?" or whatever post he happens to hold. Sometimes the ballot also contains the reasons given for the proposed recall—a summary statement prepared by the backers of the petition, together with a brief defense by the official under attack. Almost always there is added a list of candidates who aspire to take his place. Voters are directed to express their opinion concerning the desirability of recalling John Doe, and in addition to indicate their preference for his successor, should he be removed. As a rule, therefore, the official's name appears only once on the ballot—in the question of his recall. This arrangement is unfortunate, for it means that in a close election an unpopular public servant may be replaced by one even less popular. Forty-five per cent of the voters may not be able to prevent the recall of an official, but twenty-five per cent of them may succeed in naming his successor. An illustration may serve to make this clear. Suppose that ten rival candidates aspire to replace Commissioner Doe, and that fifty thousand votes are cast at the recall election. Under such circumstances Doe may be forced out of office despite the fact that twenty thousand votes are cast in his favor (because thirty thou-

sand ballots are marked against him). And his place may be taken by a candidate who was able to muster only ten thousand votes, but who stood higher than any of his nine rivals. In order to prevent such a possibility, a number of cities include the name of the challenged official among the list of candidates for office. But this plan is not likely to give greater satisfaction, since it opens the way for an official to be recalled by a bare majority of the votes cast, and then elected by a substantial plurality over his rivals to fill out the remainder of his term. Apparently there is no way to escape both horns of this dilemma.

The recall has proved very popular. First tried by Los Angeles in 1903, it has been accepted with open arms by the friends of the initiative and referendum, and the three reforms have come to be regarded as integral parts of a single movement. Acceptance of any one has usually meant adoption of the other two also. The recall, therefore, has also been written into most commission and manager charters. In all, about twelve hundred cities have made provision for its use. It applies only to elective officers as a rule, but in a few instances it is made applicable to appointive officials also.[5]

The "Pros" of the Recall

The argument most commonly advanced in its favor is that it places in the hands of the people an opportunity to remove immediately officials who have been unfaithful to their trust, instead of waiting months or years for terms to expire. Without such power, it is said, the voters are unable to prevent dishonest mayors, councilmen or commissioners from debauching the public morals and looting the public treasury. They must content themselves with meaningless protests while the entire city government is made a place of corruption. And as for well-meaning fools who have somehow managed to slip into public office, though they have not the slightest semblance of capacity for their tasks, the voters must also endure them until the end of

[5] The city manager of Dayton, for example, is subject to the recall. See p. 243.

their terms. The remedy for such an intolerable state of affairs is the recall, we are assured. When public officials demonstrate beyond cavil their knavery or ineptitude, they can be removed at once, and their places filled by men better qualified to hold offices of trust. "Officeholders stand in the same position to the public as the agent does to the principal. They are simply the instruments for carrying on the business of the public, and if they are faithless in performing their duties the law should provide adequate means for getting rid of them and putting others in their places."[6]

One can only admire such sublime and childlike faith in the far-reaching power of direct democracy. The recall is made necessary, it will be remembered, because the people have made mistakes in choosing their representatives. They have selected men who have proved incompetent or faithless. Yet the remedy proposed is to have them turn the rascals out of office and choose their successors. If the voters were wrong the first time, let them try it again, and perhaps eventually they will be right. For no matter how many times they err, no matter how frequently they display the crassest ignorance or indifference in selecting their officials, they are the sovereign people, and fundamentally the people are always right!

One of the merits claimed for the recall is that it makes public officials more careful of their trust, more responsive to every clear manifestation of public sentiment. The mayor or councilman who knows that his tenure of office is quite secure for two or three more years, and that he can only be removed by the cumbrous process of impeachment or the still less probable method of expulsion, may be tempted to turn a deaf ear to the wishes of the people. He may ignore their demands, and trust to luck that they will have forgotten their wrath before the next election. But the official who is subject to the recall dare not take chances with popular forgetfulness. He cannot postpone his day

[6] Address of Thomas A. Davis, quoted in W. B. Munro's *The Initiative, Referendum and Recall*, p. 314.

of reckoning to some distant time. He must always be prepared, like any good steward, to render an accounting to those he serves.

There is another side to this argument, though it is seldom heard among the friends of the recall. The public official is not only faced with the necessity of guarding carefully his trust; he must trim his sails to every passing gust of popular fancy. He cannot safely lay long-time plans, and trust that the results will justify him. Instead, he must make every move with a view to its momentary effect. He must sacrifice ultimate right to temporary expediency. He must become an opportunist. Otherwise unscrupulous opponents with facile tongues may misrepresent his policies, and induce the people to recall him from office. Of course, no one seriously believes that the recall has transformed all far-sighted statesmen into cringing cowards, and that broad-visioned policies are never formulated in recall cities. Though the danger is real, it does not always materialize. But on the other hand it would be equally absurd to claim that the mere introduction of recall provisions in city charters had metamorphosed the hirelings of the boss into conscientious public servants, and given a measure of reality to their lip worship of democracy.

The recall's most potent claim to consideration is probably that it forces every official to take the public into his confidence, and explain the reasons for his every move. The man in office, especially if he is thoroughly familiar with his work, is apt to forget the importance of having public opinion soundly behind him. Knowing that he is right, he may assume that the program so obvious to him is equally plain to everyone else. In a short time he is likely to find himself several years ahead of public opinion, and faced with the alternative of marking time until the public can be educated to his viewpoint or of yielding the leadership to someone else more closely in touch with popular sentiment. Adoption of the recall by American cities has undoubtedly lessened this danger. It has served to emphasize the need for public approval of civic policies,

and has tended to make every official somewhat of a press agent for the activity he directs. The public is gradually getting to know the inside story.

Then, too, the recall has gone far toward reconciling the people to longer terms. The movement to increase the tenure of office of mayors, councilmen and commissioners has always been regarded with suspicion by a large portion of the voters. They have hesitated to grant power for longer periods, lest they choose the wrong men and be obliged to tolerate them for many weary years. But with the introduction of the recall their opposition has waned. They have been willing to vote for four- or even six-year terms, secure in the knowledge that the door has been left open. Some persons argue, however, that the real effect of the recall has been to shorten terms instead of lengthening them, if we look behind the letter of the law to its real meaning. For the public official, formerly guaranteed one or two years in which to become familiar with his duties and justify his policies before again facing the necessity of a campaign for re-election, is now assured of but a few months of probation. After that the recall may be applied at any time. He is in constant instead of periodic danger of being ousted from office. A veritable sword of Damocles is always suspended over his head, and any momentary whim of the electorate may sever the hair that holds it.

Objections to the Recall

Some of the arguments against the recall have already been mentioned in the course of the discussion—that it makes public officials unduly subservient to passing public fancy, and that it destroys the chief advantage of longer terms. But there are other objections also. The recall is another of our dearly loved checks and balances, intended to prevent the abuse of power. That fact may account in part for its widespread popularity, for the people are very distrustful of concentrated authority. It places an additional burden on the voter, bringing him to the polls from time to time for special elections. As applied to appointive officers, of course, its absurdity is apparent. These men or women are put in the appointive class for the excellent rea-

son that they are technical experts whose qualifications cannot well be decided by the people. But if the people are poorly qualified to determine the matter of appointment, there is no reason to believe that they are better able to judge the question of dismissal. The removal from office of trained administrators should normally be in the hands of the appointing authority; never should it be vested in the electorate.

All too frequently the filing of a recall petition is followed by a heated and totally misleading campaign. The real motives of the sponsors may never be known to the body of the voters. Hatred, jealousy and political ambition may all play a part, but none of these is likely to be mentioned in the statement of charges. In fact, the charges openly made are likely to have very little relation to the real reasons. Rascals prefer to keep their motives secret, and even public-spirited men, who seek the recall of a public official because they think he is a knave, hesitate to put their belief into print. More than one libel suit has sprung from charges made in a recall petition.[7] So the whole affair is apt to degenerate into a maze of vituperation and abuse, with the public hopelessly confused as to the real issues involved.

Most of the reformers who at first urged the adoption of the initiative, referendum and recall by American cities pictured them as weapons of last resort, to be used by the public only in case of emergency. They were described as safety valves, essential in time of peril, but not to be tampered with on ordinary occasions. Unfortunately, the people have shown no intention of restricting their use of direct legislation within such narrow limits. Though they have not as a rule employed it widely and to excess, neither have they kept it solely for emergency use. The recall, however, has conformed more closely to the specifications

[7] An interesting article from the pen of S. B. Warner, of the Law School of the University of Oregon, "Criminal Responsibility for Statements in Recall Charges," appeared in the *National Municipal Review* for February, 1926. Since the publication of Mr. Warner's article the Supreme Court of Washington has held that charges in a recall petition are only qualifiedly privileged. State *v.* Wilson, 241 Pac. 970.

originally laid down by its advocates. It has remained more distinctly a last resort measure. Probably not more than four or five recall elections are held in any one year in all the cities of the United States combined, and it is doubtful if more than half of them are successful.[8] Evidently the recall has not proved such an instrument of oppression as its opponents feared. Whether it has actually made public officials more circumspect no one can say with assurance.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chap. XI.

Barnett, J. D., *Operation of the Initiative and Referendum in Oregon,* New York, 1915.

Bryce, James, *Modern Democracies,* New York, 1921, Vol. II, Chap. XLV.

Detroit Bureau of Municipal Research, *Direct Legislation in Detroit,* June, 1925.

Hall, Arnold B., *Popular Government,* New York, 1921.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XIII.

——*Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XVII.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XVI.

Sait, E. M., *American Parties and Elections,* New York, 1927, pp. 540-8.

Arneson, Ben A., "Do Representatives Represent?" *National Municipal Review,* December, 1927.

Boots, Ralph S., "The Initiative and Referendum in 1923 and 1924," *National Municipal Review,* January, 1926.

——"The Initiative and Referendum in 1925 and 1926," *National Municipal Review,* October, 1927.

Garber, J. O., "The Use of the Recall in American Cities," *National Municipal Review,* May, 1926.

King, Judson, "The Initiative and Referendum Elections of 1926," *Bulletin No. 107 of the National Popular Government League,* Washington, 1927.

Shoup, E. L., "The Initiative and Referendum in Thirty-six American Cities," *National Municipal Review,* October, 1923.

Warner, S. B., "Criminal Responsibility for Statements in Recall Charges," *National Municipal Review,* February, 1926.

[8] Garber, J. Otis, "The Use of the Recall in American Cities," *National Municipal Review,* May, 1926.

CHAPTER XV

MUNICIPAL POLITICS

If democracy is literally government "of the people, by the people, and for the people," then it is a fallacy and an illusion. For not in any place at any time have the masses of the people really kept a permanent hold on their government. We talk about the rule of one, and call it monarchy, the rule of a few, and label it oligarchy; the rule of many, and name it democracy. But as Lord Bryce pointed out some years ago,[1] every government is really in the hands of a very few. A so-called absolute monarchy is controlled by the king and his advisers. A democracy is governed by the leaders, the bosses—whatever you may choose to call them. But whatever name you may give, they are the men who control the machinery of government, who determine which candidate shall be elected and which defeated, which laws shall be passed and which sidetracked, which policies shall be adopted and which discarded. Within fairly broad limits they make and unmake public opinion.

Take at random any American city. Its voters have very little to do with the important decisions which must be made almost daily in the conduct of municipal affairs. Their opinion is asked only at infrequent intervals, and then, in all probability, it is asked in such a way as to make a coherent answer impossible. Nor do the masses of the people have any desire for more direct control. They are so busily engrossed in other matters that they have little time for their civic responsibilities. They must earn their daily bread—perhaps a little butter also; they must pay some attention to their homes and their families; they must have time for recreation. There is little opportunity to con-

[1] *Modern Democracies,* Vol. II, Chap. LXXV.

sider political issues and examine the records of candidates. Every year more persons find it an irksome task even to go to the polls and vote. Of course, there are ways of lightening the voter's burden. Elections may be held less frequently, ballots may be made shorter. But these reforms only serve to emphasize the fact that most governmental matters are in the hands of the few.

The men who have the inclination to devote all their time to politics and the ability to dominate their fellows are the American ruling class—chosen by the Almighty far more than the monarchs of Europe who for centuries prated their divine right to rule. They may be mayors or councilmen, governors or senators, holding power as a gift from the people, and responsible to the people for their official conduct. More probably they are ward leaders or city bosses, holding no public office, responsible to no one for the the things they do, retaining power over municipal affairs through the sheer force of their own personalities and the strength of their organizations.

In many American cities—perhaps in most of them—the mayor is not the outstanding figure in the government. Nor does the balance of power rest with council. It vests in the head of the dominant party organization, the leader of the machine, the city boss. He may have no official status, no formal recognition. But everyone knows that he controls the government. Every experienced person who wishes a bill enacted into law goes directly to the boss, understanding full well that his approval means certain passage. He and his lieutenants are all-powerful.[2]

Paralleling the municipal organization, in the average city, is a party organization—two party organizations, in all probability, though one of the two is likely to be very much stronger than its rival. The man who controls the dominant party organization is the city boss—or the party leader, if you prefer. Under him are many party workers, thousands of them in the larger cities. Often the number

[2] See Elihu Root's description of the "Invisible Government," on p. 23.

of professional politicians who keep the party machine running smoothly mounts into the thousands. The Republican organization in Philadelphia has at least fifteen thousand workers, and New York's Democratic machine has three times that number. The exact manner in which such an army is mobilized for active service varies from city to city, but everywhere the general scheme is much the same. Cities are divided by law into wards, and these wards form the basis of party organization. Nominally, the party members of each ward choose a committee to represent them, and this ward committee in turn selects a representative to sit on the central city committee. In actual practice, of course, it usually works the other way. The members of the city committee select the men whom they wish to compose the ward committees, and these men are almost invariably chosen at the polls by the party's members after a little carefully calculated campaigning. Wards are usually divided into election divisions or precincts, and each precinct has five or six workers, headed by a politician called lieutenant, captain or something of the sort. In New York, Chicago, and probably in most cities the precinct captain is appointed by the ward leader, and is given a certain amount of freedom in selecting his own assistants. Some municipalities, however, follow the Philadelphia plan of having the voters in each precinct elect their own precinct committee and delegates to the ward committee. But such minor differences may be brushed aside. The organization is always a perfect hierarchy—a carefully prepared pyramid with the precinct or division leaders and their workers at the bottom, the ward leaders and their henchmen just above, and the city committee at the top. The city committee chooses its chairman, who then becomes officially the head of his party. He may or may not be the city boss; usually he is not. For the boss generally prefers to let someone else have the title, while he retains the power. As a rule he is merely one of the members of the city committee. But everyone knows who is the real head of the party and of the city government.

The Boss

The boss deserves more than passing mention. Mayors and managers come and go, but he maintains a permanent hold on power. Like Louis XIV, he *is* the state. What manner of man, we may well ask, is the boss? How did he secure control of the city government, and how does he retain his hold? It is not easy to say what manner of man he is, for there is no typical boss. The cartoonist's concept of a pug-ugly with beetle brow, cigar in mouth at an uncertain angle, hat tilted on back of head, thumbs in vest, and feet on some convenient table, seldom finds its counterpart in real life. The boss may be loquacious, or he may be taciturn to the point of sullenness. He may be a good mixer or an unobtrusive sort of fellow. He may be a man of education and refinement, or a rough and ready person who has worked his way up from the ranks. He may be poor or wealthy when he seizes the reins of power; he seldom dies poor, for tribute flows freely into his coffers. Neither does he die very wealthy, for that matter, unless the fates are unusually kind, for the demands made upon him are excessive. He may be a stern taskmaster or an easy one. He may have many close friends or very few. Only one thing can be said with certainty; he is a man who knows how to get results.[3]

Nor is it possible to trace with any exactitude the manner in which a man becomes boss of his city. First he is likely to begin as an ordinary precinct worker, carrying out the commands of the precinct captain. In time his good work in getting voters to the polls may win for him the post of captain, and if he demonstrates his ability to swing his precinct at every election by a substantial majority he will soon become a power in the ward. The death of the ward boss may leave him in control, or he may successfully challenge the boss's power and make himself master of the ward. By the time he becomes ward leader he is certain to have a substantial following. Hundreds of other am-

[3] See Professor Munro's interesting analysis of the boss in his *Personality in Politics*, pp. 42-78.

bitious men, young and old, look to him for advice and jobs. He is certain to receive a comfortable place on the city payroll for himself. He may be appointed recorder or deeds, or "elected by the people"—using the term that preserves the popular fiction—to the office of coroner. No one, except possibly the people, expects him to devote his time to his public duties. He must supervise the far more important work of keeping his ward organization intact and making certain that votes will be delivered according to schedule on election day. The money he receives from the public treasury enables him to live without financial worries. While he strengthens his position as ward leader, of course, he casts envious eyes at the pinnacle on which the city boss sits supreme. He should like to have that post for himself. Some day his chance comes—the death of the boss, a series of successful revolts by the boss's lieutenants which shear him of power, or perhaps an investigation by the grand jury which puts him behind the bars. Then comes the inevitable struggle to determine who will be the new Cæsar, and if the ward leader whose career we have followed has just the right combination of skill, force, judgment, luck and lack of scruples, he may seize the coveted crown.

Once in power, he cannot relax his hold for a single instant. There are uprisings within the organization which must be crushed, and revolts of the independent voters which must be aborted. The boss must be known as the people's friend. He must always be "at home" to those who wish to see him. He must do what he can to help any one in distress, for even though people are in distress they still have votes. He must lend money to those who need it, or say they do; he must get jobs for the jobless, food for the hungry, shelter for the shelterless. He is a good Samaritan, indeed, but his motives will not bear too close inspection. Above all else, he must somehow secure a living for every one of his subordinates. He can hold their allegiance only so long as he can furnish them with means of support. The easiest solution of the problem, of course, is to put them on the public payroll. But civil service examinations

and other reforms have made city government less of a spoilsman's paradise than it used to be. As a rule the number of municipal positions under the direct control of the boss is not nearly enough to satisfy all who make claims on the ground of party service. So other sources of employment must be found—and they are not hard to find, for one in the position of the boss. Many persons, including the officers of public utilities and many other great corporations, are anxious to be on friendly terms with the city boss, and glad to do him a favor. They know that he has it in his power to do them good or ill. And so they absorb a certain percentage of the party workers who have not been cared for in other ways. Contractors bidding for city work generally understand that a number of the faithful must be put on their payrolls.

In the course of a year, or even a month, the boss is called upon to spend a great many dollars, and the calls are usually of the kind he cannot afford to refuse. Friends and would-be friends, some of them politically potent, come to him with tales of hard luck. He is expected to be a "good fellow," and stake each one to a fresh start. Charitable workers of every description come to him, knowing that he will prove easy prey. His name must be at the top of every list of subscriptions, must head every drive. Then there are his lieutenants, who need large sums of money for devious purposes never officially chronicled. They expect him to get it for them, and they are never disappointed, for only by spending money lavishly can they continue to control their wards. The boss of the average large city handles millions of dollars in a surprisingly short time, but only a small portion of this wealth ever clings to his own fingers.

Sources of Tribute

It might fairly be asked: where does the boss's money come from? What are his sources of supply? One of the most important contributors is the underworld. Its denizens, be they bootleggers, pickpockets, professional thugs or keepers of brothels, pay large sums every year to the

trusted lieutenants of the boss. In return they expect, and receive, police protection. As long as they "behave themselves"—that is, continue to render their tribute regularly—they are virtually free to carry on their nefarious practices without fear that they will run afoul of the law. Policemen dare not arrest them, district attorneys as a rule have not the courage to prosecute them, and few judges will pronounce sentence upon them. For policemen, prosecuting attorneys and judges alike owe their appointment, or perhaps their election, to the machine. They have obligations to the boss which must be fulfilled. And they know that disobedience means a violent death politically. Judge Ben Lindsey of Denver tells of one case in which the insistence of his court resulted in sending a prominent wine-room keeper to jail. The man afterward said to him: "Judge, I don't blame you; but I do blame the fire and police board. The man on the beat who represents them came around collecting for the chairman of the party committee. He collected five hundred dollars from me, and told me that I was not to be interfered with; but now he says this Juvenile Court is making more fuss than they thought it would, and until something can be done to stop it, they cannot guarantee us the protection they used to."[4]

Large sums can be obtained from the sale of special privileges to giant corporations—especially the public utilities. The street railway, gas and electric companies make large profits or small according to the bargains they are able to strike with the city. A franchise drawn to suit their requirements may be worth millions of dollars. Small wonder that they are willing to pay a few hundred thousand for the privilege of writing their own terms! If the street railway company desires a new contract, for example, its first step is likely to be the preparation of an agreement which it knows will yield large returns. Then this proposed franchise is taken to the boss for his approval. In all probability he will be found in a receptive mood. He is ready to do the right thing by the company, of course.

[4] Quoted in Maxey, C. C., *Readings in Municipal Government*, p. 120.

He is glad to put his O. K. on the agreement and thus insure its passage by council. But first the utility must pay a good deal of money—perhaps several hundred thousand dollars. The boss doesn't want any for himself, he is careful to explain. But the "boys" must be satisfied. There are the members of council, for example, who must be taken care of before they can be relied on to pass the franchise. Then there is the mayor, whose veto might prove fatal. And probably there are a few other influential members of the machine who must be paid for their silence. At last the money is paid, and the agreement becomes law. In this way all too many of the franchises held by public utility companies have been obtained.

But the blame cannot be laid entirely at the door of the utilities. Far from it. Any man who stands high in the councils of a street railway, gas or electric company knows that it is virtually impossible for his organization to keep out of politics. It may be anxious to deal only with the legally chosen representatives of the city in an open, aboveboard manner. The boss will not have it so, however. He proceeds to blackmail the utility most unmercifully. First of all, one of his henchmen in council introduces a bill, ostensibly in the interest of public safety or convenience, which would place an intolerable burden on the company. Then he visits the company's officials, and explains how much it will cost to have the bill killed in committee. At first the officials may not come to terms. But sooner or later, as the bill is approved by committee and comes nearer and nearer to passage, they capitulate—usually for several times the amount they were first asked to pay. Eventually they learn that they must play politics in order to survive, and that playing politics means nothing more nor less than playing hand and glove with the city boss.

The utilities are not the only corporations blackmailed by the boss and his associates. Every man doing business on a large scale is apt to be considered legitimate prey. If he fails to pay a certain amount of tribute at regular intervals to the party organization, he will be subjected to a

host of petty annoyances. "No parking" ordinances will be enforced strictly against his trucks, but not against the trucks of his competitors. Half-forgotten or newly created building or fire regulations of unreasonable stringency will be rigorously enforced against his property. And at last he will find it cheaper to submit to extortion than to continue a losing fight.

The boss also has many other ways of getting revenue. One of them is through the letting of contracts for city work. In the "good old days" it was generally understood that the contract for any piece of municipal construction would go to some friend of the boss, and that the bill paid by the city would be several times the actual cost of construction. The rake-off would then be divided in some manner agreeable to all. But times have changed. In most states the law now provides that the city authorities must advertise for bids long in advance, and that the contract must be awarded to the lowest responsible bidder. Of course, there are many ways of getting around this requirement. A favored contractor may be encouraged to bid low, with the understanding that he will not be required to live up to specifications. Or he may be permitted to present exorbitant bills for "extras" of every description, knowing that they will be honored by the proper authorities. Sometimes the specifications drawn up by the engineering department call for the use of a patented article which is the sole property of a single contractor. Other contractors are then invited to bid—if they can. There are a dozen other ways of beating the law. A number of years ago, when Morris L. Cooke became Philadelphia's director of public works, riding in on the crest of a reform wave, he reported that "most of the specifications willed to us by our predecessors had been written by contractors, and that most of the work covered by these specifications had been inspected by men on the contractors' payrolls."[5] Sometimes city bosses go directly into the contracting business, either conducting the work under their own names or remaining silent partners. But more commonly they find it

[5] *Our Cities Awake,* p. 30.

safer to keep away from partnership in any contracting firm.

The assessment of real estate offers a fertile field for graft. In fact, some political machines have developed the plan to a high degree of efficiency. When the party coffers are low, every large property owner is likely to receive a letter from a private attorney reading somewhat as follows:

"Dear Sir:

"I have just learned with amazement that the assessment on your property has been increased by thirty thousand dollars. This is an unjust assessment, and I shall be glad to do what I can to have it reduced to last year's level. I ask no fee for my services. It will be an expensive task to secure the evidence necessary to convince the Board of Tax Revision, however, so I suggest that you send me a check to cover expenses. Two hundred dollars will be adequate.

"Very truly,"

Stripped of its verbiage, this note really means, of course: "Pay two hundred dollars to the political machine, or your assessment will be raised thirty thousand." Often the attorney's letter arrives before the official notice. Most business men understand well enough; they have no difficulty in reading between the lines. And they make their contributions as requested, knowing that any other procedure would be still more costly.

Then there is the assessment of office holders. Every person whose name is on the payroll of the city is supposed to owe a debt of gratitude to the party organization, and is expected to liquidate his debt by paying a certain portion of his salary or wages into the organization's treasury each year. Should he fail to do so, he may expect summary dismissal. When the system works smoothly, scarcely anyone is exempt, from the chiefs of bureaus to the office boys. Morris L. Cooke estimates that ninety-four per cent of the persons employed in the Philadelphia municipal service were regularly paying their "contributions" at the time he took charge of the public works department.[6] More

[6] *Our Cities Awake*, p. 35.

recent developments, however, have tended to hamper the smooth functioning of the system. For one thing, many employees are honestly chosen after competitive tests, and they feel with reason that their appointments are in no wise due to the influence of the political leaders. They are disinclined to pay political tribute, and if the head of their department happens to be under no obligation to the boss they may escape altogether. Then, too, the laws of many states now make illegal the political assessment of office holders. Such laws do not prevent the practice, but they make it necessary to proceed with greater caution. No longer does the employee receive a letter telling him in plain words that he must pay into the party treasury a certain percentage of his salary. Instead he gets a note explaining the needs of the party, and requesting a contribution. In order that nothing may be left to the imagination, one corner of the letter may contain the figure "3%." That is a delicate way of saying that three per cent of what he has earned during the year must go to oil the wheels of the political machine.

Another highly profitable source of revenue for the boss and his associates is the buying of land which is later to be taken over or improved by the city. A certain area is needed for a new library, or is to be made more valuable by the development of a boulevard. The boss knows all about the matter in advance, of course; usually he determines what land is to be taken. So he has a fine opportunity to purchase it cheaply and then sell at a huge profit. This practice may be very unethical, but it has the obvious advantage of carrying with it no reasonable prospect of a jail sentence.

The boss is almost always known as a man of his word. Once he has made a definite promise, his friends and his enemies alike can be certain that he will keep to it. Many a boss likes to boast that he has never broken his word to anyone. But this is not because he has any scruples about lying. A boss cannot afford to have scruples. It is simply because he has found that truthfulness as a consistent policy is good business. The keeper of a gambling dive will pay

for promised protection if he knows from past experience that the promise will be kept. The man who wishes to obtain a contract from the city will pay well for it if he can rely on the boss's word that its terms will not be rigorously enforced. But if the boss ever breaks his promise—if he withdraws the dive keeper's protection or permits strict inspection of the contractor's work after the money has changed hands—his sources of revenue will dry up as if by magic. Men will not pay for something unless they can be reasonably certain of getting it. That is why there is honor among thieves.

Ward and Precinct Leaders

The burden of the organization's work falls, not upon the boss, but upon the ward and precinct leaders. They are responsible for making a good showing on election day, and excuses will not be accepted. An efficient precinct captain can call by name every man, woman and child in his division. He knows where they live and where they work, their fancies and their aversions, their political beliefs and their voting habits. He understands their wants, and not infrequently he goes into his own pocket to satisfy them. Especially in the poorer wards, and among the foreign elements, he acts as a buffer between his people and the law. He gets fines remitted, taxes lowered, garbage collected more promptly. He helps aliens become naturalized. He attends weddings, funerals, picnics. He pays petty debts, gets jobs for those out of work, puts coal in the cellars of those who are suffering from the cold. And in exchange he asks only a vote on election day. Small wonder that he gets it.

Yet even in the poorer precincts there are always some who neglect to go to the polls and register their gratitude or friendship. So automobiles must be provided for their convenience. Perhaps a poll tax must be paid. All these details are attended to by the precinct captain. If he has especial difficulty in turning out a substantial vote, he may call upon the ward leader for aid. In a short time reinforcements will arrive in the form of additional workers

and motor cars, sent from precincts where everything seems to be going smoothly. And at the end of the day the tally sheets are likely to show an overwhelming victory for the political machine. Any other result would be surprising.

The poorer wards of a city—those which contain the foreign groups, the large majority of the negro population, and the more ignorant native whites—are generally the strongholds of the machine, as everyone knows. This fact is commonly taken to mean that the poorer people vote blindly, without knowing or caring how they cast their ballots. Nothing could be farther from the truth. The poor and ignorant may not even know the name of the person who heads the ticket for whom their votes are cast, but they do know that they are pleasing the man who has befriended them, and stood at their beck and call, every day since the previous election. They look upon him as a sort of big brother, and they are only too glad to do his bidding. Some time ago, when asked to explain the uninterrupted supremacy of his faction for a long period of years, a ward leader replied that he could do so in two words—*personal service.*

There has been a tendency in recent years on the part of some sentimentalists to regard the political machine as a large-scale eleemosynary institution, taking care of poor unfortunates who would otherwise be friendless. Motives of love and tender devotion are occasionally attributed to precinct and ward leaders. But enough has already been said to make clear that the professional politicians are not swayed primarily by unselfish impulses. They charge a public utility half a million or more for a franchise written by its own attorneys, and then scatter a small portion of their ill-gotten gains among the people in the form of charitable gifts, picnics, overdue rents and funeral expenses. The utility at once proceeds to get back what it paid, and more, in the form of higher rates, and the people, after paying these higher rates, humbly vote their gratitude to the political machine at each succeeding election. The vicious circle is complete.

Those who have had close contact with the ward poli-

ticians of any large city know quite well that their partisanship is a sham. They are not even faintly interested in the success of the state or national ticket, except in so far as it affects local patronage. They can wear a Republican or Democratic label, or even Socialist, if need be, with equal grace. They do not hesitate to work in harmony with their nominal opponents of the opposite party when occasion arises. Bi-partisan working agreements are common. If the Democrats are in the majority, for example, the Democratic boss arranges with the Republican politicians for their support in a number of close ward contests. In return, they are promised their share of appointments. Practices of this sort are especially common, and especially unfortunate, when one party is overwhelmingly predominant. The weaker group is apt to degenerate into a mere subsidiary of the stronger, deceiving no one by its protestations of partisanship. In Philadelphia, for example, where the Republican machine is so powerful as to prevent the election of even a single Democrat to council, most of the professional Democratic politicians are looked upon with favor by the regular Republican organization. They can be relied on to cause no trouble at inconvenient moments. And their reward is sure.[7]

The framers of city charters have occasionally tried to insure minority representation by providing for bi-partisan boards and commissions. In setting up a commission of five members, to use a simple illustration, they have stipulated that not more than three might belong to the same political party. But requirements of this sort are easily evaded. If the city boss appoints the majority members of the commission, it is virtually certain that he will select the minority representatives also. He can readily find plenty of men who will take any party label for the sake of securing a comfortable place on the city payroll. And those men, by virtue of their position, are likely to become in time the leaders of the minority party. Always ready to show fight and talk bravely of opposition when nothing is at stake,

[7] See the author's article, "The Democratic Party in Philadelphia," published in the *National Municipal Review*, May, 1925.

they hasten to do the bidding of the boss whenever occasion arises. In certain precincts of many cities the dominant political machine actually selects, not only the judge of elections and the majority party election inspector, but the election inspector of the minority party as well! It is an old saying, and a true one, that "there is no politics in politics."

Of course, the discussion of municipal politics in this chapter is not equally applicable to all American cities. Some urban communities, especially the smaller ones, are relatively unbossed. Some have enjoyed long periods of uninterrupted good government, without any victories for the spoilsmen and the grafters. Others have suffered from the effects of boss rule only sporadically. Occasionally, honest, broad-visioned men have succeeded in turning the machinery of party organization to righteous ends, even adopting some of the methods of the boss for the sake of securing good government. But these things are exceptional. They are in striking contrast to the mire of American local politics which surrounds them. They are no more typical than the rose which grows in the midst of weeds.

In virtually every city party organization is strong. It must be, to win elections. For "party organization is to a political party what bones are to the human body. Organization gives the party direction, unity, permanence and strength." Everyone recognizes the importance of organization in an army, but it "is no more important to an army than to a party; neither can exist without it. A howling mob armed with sticks and stones" might overcome a well disciplined and fully equipped army, but the chances are against it. Just so unorganized citizens might elect their candidates in the face of organized opposition, but the likelihood is not great. "Victories, both on the battlefield and at the polls, go to the faction that is most highly organized."[8] The gods of politics are on the side of the best organization.

The question might well be raised, therefore: What chance

[8] Lipkin, Mordecai, *The Division Leader*, Wharton School Reports, 1925.

does the friend of good government have against the party machine? How can the dilettante reformer, the dabbler in politics, hope to win against the professional politician? How can he expect to match a few hours a week, or a few weeks just before election time, against the precinct or ward leader's year-'round service? Frankly, the person who tries unselfishly to improve the old order is fighting an uphill battle. The odds are all against him. He is matching wits against men who have played the game for years, who know it from every angle, who have no scruples about the methods they employ, and who *must* win because defeat would take from them their livelihood. The poet said of Sir Galahad:

> His strength is as the strength of ten,
> Because his heart is pure.

A similar comment has never been ventured about the progressive voters. Their hearts may be as pure and their motives as fine as those of King Arthur's noblest knight, but not often is one of them a match for ten ward politicians.

The friends of good government are seldom elected to public office. They know from bitter experience that only occasionally can they hope to be the successful candidates. Even when they score an occasional triumph at the polls as the result of a sudden outburst of popular indignation, their success is not likely to continue long. The professional politicians know this quite well, and never get discouraged. The loss of one election means for them almost certain glory at the next. So they simply draw into their shelters until the storm has abated and then begin throwing out insinuations against the reformers—their characters, their methods and their ideals. They continue rendering service to those who need and appreciate it. And in due time they are quite certain to sweep their slate into power. Then they can set about quietly recouping their losses.

Yet thoroughgoing reforms have been accomplished in the field of city government during the last few decades. The short ballot has become a reality in many municipalities. There is scarcely an American city, in fact, that has not felt

to some extent the influence of the short ballot movement. The merit system has been widely accepted as the proper method of selecting public employees. Some cities, of course, have adopted it only in part or not at all. In many others the authorities merely give it lip worship. But almost everywhere there has been a change for the better. The spoils system no longer flourishes as it did fifty years ago, and there are signs that in the distant future it may virtually disappear from the realm of American politics. The importance of the expert is widely recognized by mayors and councils, and experts in ever-increasing numbers are entering the municipal service. Then there are such movements as the commission and manager plans, now in force in over nine hundred cities. Many municipal ballots no longer contain party designations. Almost without exception, these reforms have been adopted against the wishes of the professional politicians, and despite their bitter opposition.

The Mechanics of Reform

When one stops to consider how infrequently the friends of good government—progressives, liberals, independents, reformers, or whatever they may choose to call themselves—have actually been in power during the last three or four decades, the record of their influence on the course of city government is astounding. Strange as it may seem at first thought, they have scored some of their most important victories without destroying, or even seriously weakening, the power of the machine. They have forced the professional politicians to declare in favor of and actually adopt important reforms. The explanation, of course, is quite simple. The boss and his cohorts have been obliged to take on the appearance of virtue in order to stave off impending defeat. They have adopted the short ballot or the merit system as the only alternative to having the reformers do it for them. In this way they have often managed to rob their opponents of an effective campaign issue.

The mechanics of a successful reform movement is thus made clear. As a rule, the best way for a group of men

and women interested in promoting any new scheme—direct legislation, proportional representation, the manager plan—is to rely on a campaign of civic education which will awaken a widespread popular demand and force the professional politicians into line. For neither the boss nor his followers dare oppose an aroused and insistent public opinion. They will give the public everything it demands. But they will not give one jot more; and the demand must be made unmistakably clear. The modern politician is very different from the thick-skinned ruffian of Tweed days. He reacts quickly to every adverse current of popular sentiment—not because his motives are essentially different from those of his nineteenth century prototype, but because he has learned that discretion is the better part of knavery.

It is quite possible, of course, for the friends of the short ballot or the city manager plan to form a separate party. Such a procedure is not usually desirable, however. The new party must have a large supply of working capital. It must duplicate, or at least approximate, the careful organization of the dominant political machine in every precinct. Otherwise it cannot hope to win an election, and the votes of its adherents will be wasted. The important reform victories of the past three decades have not been won by independent parties which crushed the political machine in a series of sweeping victories. They have been accomplished instead by successful revolts of the party voters, by clear-cut popular sentiment within the party ranks which has compelled the politicians to declare their approval as a measure of self-defense.

The fight between the active friends of good government and the professional politicians is essentially a struggle for control of the means of influencing public opinion. The short ballot or any other reform will be adopted as soon as enough persons can be persuaded to think they really favor it, and to vote against those who oppose it. So the chief problem in city government—in all government, for that matter—is to keep the public well informed. The sources of public information about civic affairs are more numerous

and more reliable today than they have ever been in the past. That is the real explanation of vastly improved standards of municipal government.

A great deal of the credit must be given to the municipal research agencies which are now found in at least fifty cities. About half of them are privately financed bureaus, independent of all political affiliations, not connected with business or charitable institutions. They are manned by staffs of competent experts in various phases of municipal administration, and their task is to study the governments of their respective cities. They point out how administration might be improved, how dollars might be saved, how the structure of government might be altered in the interest of greater efficiency. But they carefully avoid personalities. They do not denounce city officials as incompetent or corrupt. They take no part in election campaigns. Their attitude is so clearly non-partisan that their recommendations carry great weight. Officials often turn to them for advice, and not infrequently follow their suggestions. The public has confidence in them, for it knows that their sole interest is in better government. The first of these agencies —the New York Bureau of Municipal Research—was founded as recently as 1906.

In about ten cities are research agencies connected with the municipal government and financed from public funds. Some of them have succeeded quite well in retaining their non-partisan character, and have reported their findings with little opposition from the professional politicians. But for the most part they have been handicapped by their close affiliation with the established powers, and have rendered the public a less valuable service than the privately financed bureaus. In fifteen cities or more considerable research work in municipal government is also conducted under the direction of the political science departments of the larger universities.

Then there are the citizens' committees—committees of one hundred, committees of seventy, or something of the sort. They are found in many cities. The number of citi-

zens comprising their membership is always large—too large for effective work, because it is desired to secure the names of a great many prominent persons, in order to produce an air of unquestioned responsibility and dignity. Of course, the members of such a committee are not expected to do much beyond contributing their names and some working capital. There is always a paid professional secretary, who shoulders the burden of the work. Through him the committee performs some very valuable tasks which the bureau of municipal research leaves undone. It endorses or denounces candidates, presenting the record of each candidate in concise form for the information of the voters. It follows the trail of graft and corruption, and exposes those who have betrayed public trust. Such committees have done a great deal to guide public opinion along proper lines. At times, however, they have fallen under the control of the professional politicians, or have been used by independents to satisfy personal grudges. The result, of course, has been to weaken public confidence.

In the fight to control public opinion, the newspapers stand in the front rank. They are admittedly the greatest moulders of popular sentiment. "Four hostile newspapers are more to be feared than a thousand bayonets," said Napoleon, and his words have been echoed time after time. A reform movement without a single powerful newspaper to back it is under a tremendous handicap. For the ideas of men are moulded in large measure by what they read in the daily press. It is not the editorials which count most, but the presentation of the news. Everyone expects a Republican newspaper to announce in its editorial column that the Republican candidate is the better man, and deserves to win. The large majority of people probably make due allowance for the partisanship displayed on the editorial page. But the news sections are different. "News" is supposed to be facts, not opinions, and to a certain extent it is. Yet it is quite possible for two newspapers to present the same set of facts so differently that the average person would scarcely realize he was reading about the same event. If a leading financier calls the mayor a thief, for example,

and the mayor replies that he is an honest man, one paper may carry the headline: MAYOR IS THIEF, PROMINENT BANKER ASSERTS. Another may blazon across its front page: MAYOR SILENCES CRITIC OF HIS ADMINISTRATION. Still another may omit all reference to the incident, if the editor thinks best, and print instead the latest developments in the Chinese situation. The readers of the three newspapers may form very different opinions as to the honesty of their mayor. It is not hard to understand, therefore, why at least one honest newspaper in each city, free from political control, is virtually essential to the progress of reform.

SELECTED REFERENCES

Brooks, R. C., *Corruption in American Politics and Life,* New York, 1910.

—— *Political Parties and Electoral Problems,* New York, 1923.

Bryce, James, *American Commonwealth,* 3rd ed., New York, 1914, Vol. II, Chap. LXXXVIII.

Gosnell, H. F., *Boss Platt and His New York Machine,* Chicago, 1923.

Johnson, Tom L., *My Story,* New York, 1911.

Kent, Frank R., *Great Game of Politics,* New York, 1923.

Lynch, Denis T., *Boss Tweed,* New York, 1927.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 116-68.

Merriam, Charles E., *American Party System,* New York, 1922.

Moley, Raymond, *Parties, Politics and People,* Cleveland, 1921.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XI.

—— *Municipal Government and Administration,* New York, 1923, Vol. I, Chap. XVI.

—— *Personality in Politics,* New York, 1924.

Myers, Gustavus, *The History of Tammany Hall,* 2nd ed., New York, 1917.

Older, Fremont, *My Own Story,* New York, 1926.

Orth, Samuel P., *The Boss and the Machine,* New Haven, 1918.

Ostrogorski, M., *Democracy and the Organization of Political Parties,* 2nd ed., New York, 1922, Vol. II.

Paine, A. P., *The Tweed Ring,* New York, 1905.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chaps. VI and VII.

Riorden, W. L., *Plunkitt of Tammany Hall,* New York, 1905.

Roosevelt, Theodore, *Autobiography,* New York, 1920.

Sait, E. M., *American Parties and Elections,* New York, 1927, Chaps. XIII and XIV.
Steffens, Lincoln, *The Shame of the Cities,* New York, 1904.
U. S. Senate, Report No. 1858, 70th Congress, 2nd Session, *Senatorial Campaign Expenditures,* Washington, 1929.
Whitlock, Brand, *Forty Years of It,* 2nd ed., New York, 1925.

Part II

ADMINISTRATION

CHAPTER XVI

MUNICIPAL ADMINISTRATION

Until very recently the friends of better city government devoted their attention almost exclusively to structural reforms. They seemed to believe that the whole problem would be solved if they could secure the adoption of such devices as the short ballot, the single-chambered council, the city manager plan. Indeed, reforms of this sort still occupy the center of the civic stage. Their importance cannot be doubted, and they should continue to receive emphasis. But it must not be forgotten that they are, after all, nothing more than means to an end. They are merely methods of accomplishing results. And they merit consideration only to the extent that they fulfill reasonable expectations. The end of municipal government is not a city manager or a short ballot; it is better paved, cleaned and lighted streets, better educated citizens, fewer crimes, a lower death rate. City managers and short ballots ought logically to lead to these desiderata. Even their general acceptance, however, cannot be accepted as final proof that the civic millennium has arrived. For in city government, as in all human activities, it is results that count. To rate the number of council chambers as more important than the decrease of illiteracy or the annual fire loss is, in modern parlance, to put the spare tire before the radiator.

Of course, the tendency to emphasize reforms in the framework of government, without due consideration for the results achieved, is natural enough. For such reforms can be put into effect with relative ease. All that is required is a stroke of the legislative pen. The legislature says: "Let municipal ballots be short," and they are short. But it takes more than a fiat of the state assembly to give to any city a lower death rate or a purer water supply. Such

accomplishments are the product of skillful administration over a period of years. They are made possible chiefly by the efficiency and loyalty of trained technicians. They may even depend in part upon the extent of public co-operation. Then, too, structural reforms can readily be seen and measured. It is a relatively simple matter to determine whether they have been adopted. Men may differ as to the merits of direct legislation, but they can scarcely argue as to whether their city charter provides for it. The desirability of a unicameral council may be a debatable question, but not the fact of its existence.

Measuring Results

The results of sound administration, however, are not so readily visible. To measure them with precision is an almost impossible task. Take, for example, the case of two cities of approximately equal population situated in different states. The question arises as to the relative efficiency of their respective governments. Chambers of commerce, perhaps, set out to determine which city is giving the taxpayers more for their money. They learn at once that City A has adopted the manager plan, while City B has still a weak mayor-council type of government. They discover that in City A the ballot is shorter, responsibility more concentrated. In A the merit system of selecting employees has been adopted, though City B has never formally accepted the merit principle. Do these facts furnish conclusive evidence that City A is better governed, and can be rated as more efficient than its rival? Obviously they do not. They show merely that the residents of City A *should* get more for each tax dollar expended. They *ought* to have better police and fire protection, better schools and teachers, better libraries, parks and playgrounds. But whether they are actually getting these things is a question not readily answered.

City A's chamber of commerce points to more miles of paved streets and a more complete sewerage system. But the chamber of commerce in City B retaliates by calling attention to the larger park area and the municipal uni-

versity. It soon becomes apparent that the two city governments must be compared service by service, if any accurate decision is to be reached. So they take up the question of fire losses. It is found that less property *per thousand persons* is destroyed by fire each year in City A than in City B. But the records also show that City B has a lower annual fire loss *per thousand dollars of assessed value of real property* than City A. Which basis of calculation should be used? The residents of B are quite certain, of course, that the fire loss should be figured in terms of real property, while A's residents are equally sure it should not. Each group feels that it has the better of the argument.

As a matter of fact, almost any city can prove its supremacy in some respect if it selects its figures with sufficient care. Some years ago the mayor of a small New England community was moved to announce quite proudly that during his administration the amount of drunkenness among the negro population of his town had been cut in half. Investigation showed him to be correct. There were only two colored men in town, and one of them, having been converted at a revival service, had given up the use of intoxicants. Of course, that is a flagrant example of how statistics may be abused; but less obvious instances constantly come to the attention of those who work with municipal records. One city reports that it is freer from crime than any other, because the police make fewer arrests per thousand persons. Few arrests may indicate few crimes, but they may show instead the inefficiency of the police department. Another municipality claims the finest educational system, because its teachers are the highest paid. Yet it is obvious that high salaries are not a sufficient guarantee of well trained teachers; the money may be squandered on second-rate instructors with political influence. Moreover, it is not necessary to assume that municipal officials are always dishonest in making their claims to supremacy. It is no easy task for well-intentioned men, whose only purpose is to learn the truth, to agree upon standards that will measure municipal services with any degree of accuracy. Suppose police protection is under consideration, and all

present agree to eliminate number of arrests as a satisfactory measure of police efficiency, for the obvious reason suggested above. What test can they put in its place? The number of crimes committed? No one ever knows the exact number. Some crimes are not reported; many are reported to the police, but never appear in the permanent police record. Only occasionally do the police keep any records worthy of the name.[1] What is more, it would be obviously unfair to give all crimes exactly the same weight. Criminal libel ought not to be put in the same class with murder. Even if we could procure reasonably accurate records for each city, however, and agree upon some scheme of weighting the different crimes according to their relative importance, we should still have trouble ahead. For each state has its own criminal code, and even cities in the same state employ different classifications. A crime which is a felony in one city may be only a misdemeanor in another, and larceny in one municipality may go by the name of robbery in a neighboring community. Why not take the ratio of convictions to crimes reported? Would that not give a satisfactory measure of police efficiency? Clearly it would not, for there are too many extraneous factors. The number of convictions depends in part upon the honesty and ability of the prosecuting attorney, to some extent upon the character of the juries, to some degree upon the amount of technicality permitted by law, and in no small measure upon the integrity of the judges. Over all these matters the police have no control. They cannot fairly be held responsible for the processes of the law after they have passed out of the picture. There is still another test—more promising, perhaps, than any of the others. That is the ratio of arrests to reported crimes. But this method of measuring police efficiency is far from satisfactory, even if we ignore the fact that some crimes are never reported. One apprehended criminal may have been responsible for any number of reported crimes, from one to several dozen. But his arrest is usually checked against only one offense—

[1] Upson, Lent D., "The Squeal Book," *National Municipal Review*, November, 1927, pp. 695-9.

the one for which he was arrested. On the face of things, one arrest is the answer of the police to one complaint. Yet in reality one arrest may mean the solution of many baffling crimes. There is another side to the story, however, which must not be overlooked. Cities have periodical drives against vice, in which hundreds of questionable characters are arrested on suspicion—perhaps charged with vagrancy. These arrests are all duly recorded, and the figures then show that the number of arrests over a certain period approximates the number of complaints. Yet a great many crimes may remain unsolved.

Let us return, however, to our hypothetical case of Cities A and B, with their friendly rivalry. In an honest attempt to determine the relative efficiency of their respective governments, they may agree upon tests for measuring the efficiency of each service. When A's chamber of commerce points to a lower mortality rate, for example, the chamber of commerce of B may be willing to accept this crude method of measurement, and admit the superior efficiency of A's health department. But someone may then call attention to the fact that the two cities are spending widely different amounts for health work. A's public health appropriation may be twice as large as that of B, though the two municipalities are of approximately equal population. A new complication is at once introduced. How much of the superior work of A's health department is attributable to its larger appropriation? How much can be credited to its improved organization and better methods? It is safe to say that any city, by spending enough money and spending it wisely, can keep its death rate within very reasonable limits. In most municipalities, however, these two conditions are not fulfilled. The council does not make large enough appropriations, and the health department does not function at maximum efficiency. The mortality rate is therefore higher than it should be; on that point everyone is agreed. But what portion of the excess deaths is chargeable to the carelessness or ineptitude of health officials? What portion may fairly be considered the result of inadequate funds? Questions such as these are very nearly un-

answerable, yet answers must be found if the efficiency of municipal services is to be measured with any degree of accuracy.

We must suppose that the chambers of commerce of A and B have agreed upon some proper weight to be given the cost factor, and have proceeded with their comparisons. Fresh complications then set in. The obvious fact is pointed out that conditions are not the same in the two municipalities. A much greater per capita expenditure for public health work may be required in City A than in City B, because of the presence in A of an exceptionally large foreign element, with relatively low standards of personal hygiene. Fire protection may cost more also, because of a larger area to be protected, a greater number of frame structures, or very high buildings. Every city has its special problems, which must all be taken into account. The mere fact that A spends more than B to accomplish the same results is only prima facie evidence that the authorities of A are wasteful. More careful investigation may show that they are faced with difficulties of which the officials at B know nothing.

Eventually, however, the chambers of commerce of the two cities may agree upon some means of measuring the efficiency of each municipal service. They may decide, by means of rather arbitrary standards, that City A has a better health department and a superior department of public welfare, but that City B's water is purer, and its educational system much to be preferred. In order to determine the relative efficiency of the two city governments, it then becomes necessary to determine the importance of each service. Does an efficient health department mean more than an exceptional system of education, or less? Is good street lighting more desirable than well-equipped public libraries, or less so? In a phrase, what is the relative importance of each municipal service? The difficulties involved in answering that question are apparent. Any person who propounds it is almost certain to receive a different answer from every one of his auditors. Yet some agreement must be reached, or else admission

freely made that the efficiency of a city's government cannot be scientifically measured. The problem of formulating adequate tests is not a task for amateurs.

The difficulty of measuring the results of municipal administration, however, is no bar to the search for sound administrative principles and the development of proper administrative technique. The future of municipal government is dependent upon the progress of administration, for ninety per cent of municipal government *is* administration.[2] It is the execution of the public business, the carrying out of the policies which have been determined by the council. It is the day-to-day routine of enforcing the laws. It is the prosaic but vital task of paving and lighting the streets, preventing fire when possible and fighting it when not, warding off epidemics or preventing their spread, maintaining schools, parks, playgrounds, libraries, insane asylums, jails—in fact, carrying on the thousand and one activities which are expected of the modern city.

The men who administer the city's affairs are in a position of great power. To a considerable extent they are the city's rulers. Nominally they may be subordinate to the policy-determining council, but in actual practice they determine to a very large extent what shall be done and the manner of its doing. For they are on the job six days a week, presumably eight hours every day, while council holds but four or five meetings a month. Council may announce how the municipal money shall be spent, but they spend it. Council may pass ordinances, but an ordinance is nothing more than an empty gesture unless it is enforced by the administrative authorities. The administration virtually sets the tempo for the entire city government.

Development of Administration

The story of American municipal government during the past two centuries—from the days of the colonial boroughs—is chiefly the history of administrative progress. The cities have been called upon to perform an ever-increasing number of functions, and therefore have been compelled

[2] See p. 247.

to develop at least a reasonably satisfactory administrative technique. In pre-Revolutionary days the municipal authorities had surprisingly little to do. Markets, wharves, ferries, street paving,[3] water supply virtually completed the list of their administrative activities. Committees of council directed the work. There was no staff of paid, professional administrators. With the coming of increased municipal activity, and the insistence of members of council that they be permitted to continue their direct control, the system broke down. Instead of council committees, elected department heads were placed in charge of the administration. Every head of a department, of course, was independent of his fellows. Chaos followed. Then came the régime of state interference, with its series of administrative boards appointed by the governor. Most of the state boards were not only unpopular, but inefficient as well, and in time they were abolished. The cities were again given a measure of control over their own affairs. With the coming of home rule that measure of control has greatly broadened. Municipal administration is today in the hands of locally elected or appointed officials and boards, with some few exceptions, such as the St. Louis police department or the Boston finance commission. These officials and boards are usually appointed by the mayor,[4] with the approval of council. The mayor is supposed to supervise them, and over them all he exercises at least a nominal measure of control. In recent years, however, his power to control the administrative departments effectively has been very nearly destroyed by the manner in which they have been multiplied. The scope of municipal activity, of course, has broadened tremendously. The cities are performing services for their people which formerly were left to private initiative, or left undone. Within the past

[3] The burden of paving the streets was usually placed on the householders, though the council exercised a general supervision. See p. 55.

[4] Under the mayor-council form of government. The commission type vests virtually all municipal powers in the commissioners, while the city manager plan provides for the appointment of department heads by the manager.

three decades, it is safe to say, the number of municipal services has at least doubled.[5] The health work of the nineteenth century has been supplemented by free clinics, specialized hospitals, child hygiene work in the homes of the people. The educational authorities have turned their attention to the special training of the physically handicapped. They have developed systems of vocational training for those about to enter industry, or already employed. In every large city the new services can be counted by the score—community centers, recreation camps, conservatories, forests, baths, aquariums, aeroplane landing fields. There must be inspectors of houses, signs, wires, boilers, elevators, refrigerators. Vice squads, women police, motion picture censors, research engineers, city planning commissions all become necessary. And the tendency of recent years has been to create a new department or a new board for every new function. As a result the number of independent departments and commissions has multiplied almost beyond belief. Nearly all of them are responsible to the mayor, of course; but how can one man possibly hope to know what is being done by fifteen or eighteen departments, and perhaps a score or more of unrelated boards? Under such circumstances the power of control means virtually nothing. The city government of Boston is usually described as the strong mayor type, and quite properly so. But a great deal of the mayor's strength is dissipated because the separate agencies nominally under his control number about forty. In Los Angeles the departments and boards total twenty-seven, and New York and Chicago have about thirty apiece.

Recent years have witnessed a movement for the consolidation of administrative departments. This reform has been aided greatly by the wide spread of the commission and city manager plans. The typical commission charter, of course, concentrates all the agencies of the city administration, except perhaps the school board and the civil service commission, into five departments. Virtually every

[5] See "The Growth of a City," published by the Detroit Bureau of Municipal Research as No. 70 of *Public Business*.

administrative activity is placed under one of five heads. Under the city manager plan, also, the number of administrative agencies is greatly reduced. Many cities which still retain mayor-council government have been influenced by the new movements to the extent of adopting plans of administrative consolidation. They have in many cases reduced the number of their administrative departments from twenty or thirty to five or six, each department comprising a large number of formerly independent agencies. In this way they have made it possible for one man to exercise an intelligent supervision over all departments, and come into intimate personal contact with each department head.

It is by no means certain, however, that such wholesale consolidations have been an unmixed blessing. They have often resulted, almost inevitably, in uniting a vast number of unrelated functions under a single administrative authority. They have brought about such incongruities as a department of public safety entrusted with police and fire protection, elevator inspection, and operation of the municipal market and employment bureau. They have sometimes made it necessary to put the division of weights and measures in the health department, and the zoological garden in the department of public works, because no more appropriate place could be found for them. For the activities of a great city do not fall naturally into five or six main divisions. Many of them cannot be fitted into such a simple classification except by arbitrary assignment.

As a result of consolidation some activities are almost certain to be slighted, because they are not understood and appreciated by the man to whose department they happen to be assigned. The director of public safety, for example, may be an expert in police administration. Even if he is only a political appointee, with limited training and little vision, he may develop a genuine interest in police work. But it is asking too much to expect him to understand, or even to appreciate, a half dozen other functions as well. In all probability he will know nothing about elevator inspection, and care less. He will doubtless leave the employ-

ment bureau and the public market to the care of a subordinate. It is unreasonable to expect anything else. For there are very few men so versatile that their interests run the entire gamut of municipal activity. If they know how to pave streets, they are probably unfamiliar with the problems of the zoo.

The Number of Administrative Departments

What, then, is the proper number of administrative departments? How many should a city have? Naturally, a direct answer cannot be given. Every city's needs are different, and the administrative machinery must vary accordingly. One community may be able to get along very well with half as many departments as its larger, more active or more prosperous neighbor. It is quite possible, however, to formulate a few principles which could be used by charter framers to advantage. First, the number of departments should bear some relation to the number and kind of the city's activities. This proposition ought to be self-evident, but it is violated every day. The worst offenders are the commission cities. Occasionally the number of commissioners is fixed as low as three, and then all the city's functions are compressed into three main divisions. The orthodox procedure in preparing a commission charter is to agree upon the number of commissioners, and after that to assign to each commissioner his share of the existing city agencies. The number of departments is thus fixed in advance, without regard for what the city is doing. A far better plan would be to catalogue the city's activities, classify them, and determine the number of departments required. The number of department heads, whether or not they went by the name of commissioners, would then be fixed with regard to need.

Second, the constant effort of charter framers should be to keep the number of departments within reasonable limits. Consolidations should be encouraged wherever possible, and the municipal service co-ordinated into a workable whole. Unless faced with the practical necessity of combining all the city's functions under four or five heads, by virtue of

the commission plan, the tendency of a charter commission is to make a half-hearted job of consolidation. Pressure is brought to bear on its members from every conceivable source to retain most of the old machinery. No sooner do they agree to merge schools and playgrounds, for example, than representatives of the playground association voice their protest that playgrounds will not receive proper attention unless given a department all to themselves. The playground authorities, resentful at the thought of being placed under other city officials, add their objections. Even the heads of the school system may declare that they already have too much to do. The politicians, anxious to keep as many political plums as possible in the form of department headships, make it known that they also disapprove. In the face of such concerted opposition it takes a group of fearless, keen-minded citizens to carry out a plan of thoroughgoing consolidation. Most city charters are the result of a series of unfortunate compromises, the so-called consolidation of administrative departments often amounting to little more than a re-arrangement.

On the other hand, a word of caution is necessary against the danger of carrying consolidation too far. It has already been suggested that radically different services should not be merged, lest one or more of them be neglected. Poor relief and the inspection of tenement construction, for example, cannot safely be entrusted to a single agency, though both services are performed in the same neighborhoods for the benefit of approximately the same people. For one requires training in social work, while the other is an engineering problem. To assign them arbitrarily to the same department would be to invite lopsided administration. One service would be almost certain to suffer.

These principles are clear enough, but to some extent they are conflicting. If the number of departments is kept low, there is always the danger of uniting functions that have nothing in common. Yet if every distinct service is given a separate department, the city government is apt to resemble an overgrown centipede. It might even be compared to a centipede with its nervous system removed,

making co-ordination of the different parts impossible. Obviously, therefore, it may become necessary at times to choose between consolidation and organization according to function. A small community may be able to group its functions in some entirely logical manner under a small number of departments and boards, but a great metropolitan center cannot reasonably hope to do so. Its services are too numerous and too diverse.

As a practical matter of administration, some restriction must be placed on the number of separate agencies which any city may be permitted to set up. Logical organization must give way to consolidation when the two principles cannot be reconciled. For there is a limit to the number of agencies which any one man, be he mayor or manager, can properly supervise. Just where the line should be drawn is debatable. But it is suggested that ten be set as the maximum. It would seem that no city should have more than ten separate departments and commissions.[6] If this principle is violated, the administrative machinery is very apt to lack precision. Every department is likely to follow its own course with scant regard for what other departments are doing. Duplication of effort, with its attendant waste, is virtually certain to follow. Ten has been selected as a desirable maximum partly with a view to the creation of a mayor's or manager's cabinet. The chief executive should meet jointly with the heads of his departments perhaps once a week. With them he should work out the important details of administrative procedure. From them he should receive valuable criticisms. He should encourage frank discussion of common problems. He should make every cabinet meeting a time for the free interchange of ideas, with every member participating. Such a plan would scarcely be feasible with a cabinet of more than ten members. It would be difficult to conceive of thirty persons freely taking part in a round-table discussion.

[6] Anderson suggests a maximum of fifteen; Goodnow offers nine as the proper number. Munro believes that the number of municipal departments should be "eight, ten, a dozen, *or even more* in the larger cities."

Of course, no suggestion is made that any city should limit the number of its activities to ten, or twenty, or even one hundred. The services which it performs for its people should be restricted only by their desires and their capacity to pay. In fact, most cities are virtually certain to witness a continuing expansion of their work. New needs are sure to appear, and old needs now met by private initiative are likely to come under municipal control. But all the services of the city should be classified and fitted into a small number of departments—preferably not more than ten. Each department would then be divided into bureaus, corresponding to the main lines of its activity. Each bureau would be split up into divisions, and even the divisions could be further subdivided if necessary. A continuing line of responsibility should exist throughout the organization, however—from subordinate to division foreman, from division foreman to bureau chief, from bureau chief to department head, from department head to manager or mayor. A few services would doubtless fail to fit into any classification that might be made, but it would be better to assign them arbitrarily to some department than to permit their development free from effective control.

Until recent years every department was virtually a self-contained unit. It not only performed the specific functions for which it was created, such as health work or public recreation, but it also attended to all the matters which arose in connection with its primary duties. For example, it purchased all its own supplies. It employed all its own workers, without interference except from the ward politicians. It employed a full-time or part-time attorney to draft whatever legal documents it might need. It kept its own records, and prepared its own statistics.[7]

This type of organization produced a great deal of wasteful duplication and an unfortunate lack of uniformity. Four inspectors might be sent to a certain area by four

[7] Such semi-independent agencies are still to be found, especially in the field of education. In the average American city the school board not only determines educational policies, employs its own professional superintendent, and purchases its own supplies, but actually fixes the tax rate for educational purposes.

different departments, though the necessary information could be obtained by one man. Four departments, or a dozen, might pay large sums for legal advice, when a single city attorney could supply all their needs. With every department purchasing its own supplies, some were almost certain to pay excessive prices. Even those department heads who possessed the sagacity to strike good bargains were unable to secure the advantages of large-scale purchasing. So in time it became generally recognized that many functions common to all the departments could be performed for them more efficiently by central agencies. These agencies were set up one by one. Almost from the first existed the finance department, though in the early days it had virtually nothing to do with the supervision of department expenditures. Then came the department of law. More recently others have been added—a civil service commission to aid in the selection of employees for all departments, a unified record bureau keeping a permanent file of all the more important city papers, a central purchasing agency, a planning commission. Agencies of this type may well be called *secondary* departments, since their contribution to the public welfare is indirect. For the most part they serve the *primary* departments, such as health, safety, welfare, education, which satisfy directly the needs of the people. The secondary departments are becoming more numerous. Every decade new central agencies are set up to perform functions formerly entrusted to each of the primary departments. In many respects this tendency is a good one. It should produce more uniform standards, less duplication, greater economy. Yet it has an unfortunate aspect also, for it divides responsibility. The secondary departments cut straight across the lines of functional organization. Therefore it is quite possible for the head of a primary department to say: "My department is failing to function properly because the civil service commission does not let me choose the men I need, the central purchasing agency does not procure my supplies cheaply enough, the record bureau insists upon a system of

classification not suited to my requirements, and the budget officer ignores my request for an adequate appropriation."

Boards or Individuals?

A much debated question of administrative organization is whether the departments of city government should be headed by boards or by single commissioners. Fifty years ago the boards had the better of the argument by an overwhelming margin. In virtually every city there were health boards, police boards, fire boards, school boards, library boards, water boards, poor relief boards, and a host of others. The number of members was far from uniform; within a single community a police board of three members might function beside a school commission of twenty-one. Bi-partisanship was the rule. The law would commonly provide that not more than three members of a five-member board, for example, might belong to the same political party, thus compelling at least nominal minority representation. Today, however, bi-partisanship has lost much of its popularity. The notion that both parties should be represented has largely been dispelled. It has been found from bitter experience that boards so constituted are unduly prone to wrangle among themselves, and that they divide along party lines on almost every question. Apparently they escape this fate only when the majority party is so strong as to control all appointments, selecting its own representatives for both majority and minority posts, and thus defeating the purpose of the law. So the emphasis has been shifted from *bi-partisanship* to *non-partisanship.* Only on election boards, where the temptation to favor one party at the expense of its rivals might be too strong for the average man to resist, and on civil service commissions, where the opportunities for partisan politics are vast, is the bi-partisan principle still retained, except in isolated instances.

Still more important, the tide has turned in favor of the single-headed department. The board principle of administration is rapidly becoming unpopular in American cities. Nearly every new charter eliminates some existing boards

and commissions, putting single-headed departments in their place. Commission and city manager charters, almost without exception, furnish excellent examples of this tendency. But the board system has by no means passed out of the picture. Far from it. Boards and commissions, in greater or less degree, control the affairs of nearly all the principal cities, and a great many of the smaller ones as well. New York City has a board of education, a board of health, a board of parks, a board of taxes and assessments, a board of water supply, and a public service commission. Yet it is committed for the most part to the principle of single-headed departments! Chicago, Philadelphia, Detroit, Boston, St. Louis and many another city entrust some of their most important functions to boards. Los Angeles has even gone so far as to adopt the board system of administration for virtually every municipal activity. Its charter of 1925 provides for nineteen separate boards and commissions. It is therefore the outstanding exception to the general rule of fewer boards for municipal administration. But a great many communities, perhaps most of them, still use boards for education, elections, planning, civil service.

To give a clear picture of the board systems used by American cities is a well-nigh hopeless task. There are so many variations, so many diverse practices, that generalizations are impossible. In some municipalities the boards are of approximately equal size, each having perhaps four or five members. But other cities make no attempt at uniformity. Sometimes board members are paid by the year; sometimes they are given a fixed amount per meeting; frequently they receive nothing. The concept of unpaid public servants, devoting a part of their time to the service of their communities through a sense of civic duty, has proved quite popular. Board members are sometimes appointed, sometimes elected. In many instances they hold their posts *ex officio*. In some cases their terms all expire at the same time; in others, provision is made for overlapping terms.

Before attempting to discuss the merits and defects of board administration, it is necessary to make some analysis

of the functions which boards perform. Some of the duties which at times fall to their lot are quasi-legislative—that is, they pertain more to policy making than to policy execution. They are the type of work which we might well expect to find in the hands of council. The board of education, for example, may determine whether vocational schools are to be included in the city's program. The board of health may decide whether it will co-operate with the state authorities in child hygiene work. These vital questions are really matters of policy, instead of administration. Other duties sometimes handled by city boards are quasi-judicial. In other words, they bear a close resemblance to the work of the courts. The board of zoning appeals, for example, devotes its time to hearing the complaints of persons who believe themselves wronged by the city's zoning policy. It hands down a decision in each case, just as a board of judges might do. And its verdicts may be appealed to the courts. Most of the work of municipal boards, however, is neither quasi-legislative nor quasi-judicial. It is purely administrative. It involves neither the making of laws nor their interpretation. It is simply the carrying out of policies already formulated by city council.

This analysis of municipal functions is important, because it furnishes at least a partial answer to the question: "Should the administrative departments of a city be headed by boards or by single commissioners?" The answer must depend in each case upon the nature of the work performed by the department under consideration. The police department, for example, has little to do with the formulation of policies. Its task is to enforce the law, and get quick results. Action is essential. Obviously, therefore, it lends itself less readily to board administration than the tax revision agency, which must hear the appeals of those dissatisfied with their assessments. In the case of tax revision the need is for deliberation and sound judgment, rather than for speed. Five men may well prove more satisfactory than one. This distinction is often forgotten or ignored, however, by those who argue for or against the adoption of the board system.

The merit of the board system most commonly urged is that it brings the combined wisdom and common sense of a number of persons to bear on every vital question, instead of leaving important decisions in the hands of one man. It usually secures several points of view, a very real advantage when the sentiment of a community is divided. The viewpoint of every group may be presented by its own spokesman. To a certain extent this line of reasoning is sound, but it places undue emphasis on the deliberative functions of city departments. Health, police, fire, public works, recreation, building and business inspection are not primarily matters of law and rule making. They have little relation to policy determination. Instead, they have to do with the day-to-day routine of quarantine and vaccination, traffic regulation and the arrest of criminals, the paving of streets and the purification of water, the enforcement of building codes and the care of parks. They require the prudent guidance of trained administrators rather than the amateurish supervision of commissions and boards. Of course, there are some exceptions to the general rule. City planning is primarily a matter of careful surveys followed by wise decisions. Utility regulation is, to a considerable extent, a quasi-judicial function. The conduct of elections is properly a bi-partisan affair, needing the representation of both major parties. Whether these functions should be handled by boards is scarcely a debatable question. The need for multiple control is plain. But the reasoning which justifies a planning commission or a board of elections cannot be used to sanction a board of recreation or a board of health.

Reply may be made that every municipal department must sometimes take a hand in framing policies. Every department must sometimes make decisions which vitally affect the welfare of the people. The department of education is frequently cited as an example of an agency which determines practically every question of policy relating to its affairs. The police and health departments, too, are often called upon to make regulations which have the binding effect of law. The fact must not be overlooked, how-

ever, that the police department, the health department, and most of the other departments of city government are chiefly agencies for enforcing the law, for carrying into practical effect the will of council. Their quasi-legislative and quasi-judicial functions are of secondary importance. The chief need is for action. While it is true that the board of education, and sometimes the park board or the board of poor relief, play an important part in the determination of policy, it may well be asked whether their policy-making function could not be transferred to council with advantage. There is neither logic nor common sense in an arrangement which permanently divides responsibility for municipal policy among council and several elective or appointive boards. If the board of education is permitted to retain control of educational matters with a modicum of interference by council—a plan which is in general favor at the present time— it must be with the clear understanding that the division of authority is permitted only because council has not shown itself worthy of complete trust. If the board of health in one city or the park board in another is retained as a semi-independent body because it has proved its efficiency over a period of years in contrast with the vacillation of council, it must not be forgotten that sound principles of administrative organization have been violated in the interest of expediency.

The control of all important municipal activities by means of boards is sometimes urged on the ground that continuity of policy may be secured in this manner. If the police department, for example, is placed under the control of a single commissioner appointed by the mayor, its policies are likely to change every two or four years. With every new mayor a new commissioner will be appointed, and the new man will feel the need of showing how progressive he is by doing something different from his predecessor. Therefore the members of the police force, and the citizens also, will never know what to expect. As soon as they become accustomed to one way of doing things they will be obliged to learn another way. As soon as one program is firmly established its sponsor will leave office,

and another program will take its place. There will be incessant change, without opportunity to carry out a single policy over a long period of years. But if the police department is placed under the control of a board, it is said, there will be no sudden changes. Experienced members will always be in the majority, and their influence will insure the necessary continuity of policy. This line of argument, of course, is based on several assumptions—that the members of the board will have overlapping terms, that they will serve for more than a single year, preferably for long periods, and that their removal will be beyond the control of the mayor. It is necessary to assume that the mayor has no power of removal. Otherwise he might at any time remove some or all the members of the board, appointing in their place men pledged to carry out his views, and under such circumstances there would be no continuity of policy. Long terms are also essential—longer than the term of the mayor, in order to prevent him from changing the entire composition of the board while he is in office. Boards which do not fulfill these conditions are no more likely to have continuing policies than individual department chiefs. And it must be admitted that boards which *do* fulfill them ignore entirely the need for concentrated responsibility. They are, in fact, responsible to no one but themselves.

Another alleged merit of the board system is that it saves money. There are plenty of civic-minded men and women, it is said, who will serve on school boards or playground commissions without pay or for very little compensation. The cost of a full-time administrator is thus saved to the city. It is a matter of record, however, that the board plan has never proved the most economical method of organizing municipal administration. There are a number of reasons for this. For one thing, board members are often paid; and while the amount given to each may be small, the total may exceed the salary of a full-time expert. Then, too, the board members do not usually conduct the actual work of administration themselves. Instead they employ a superintendent or director to give all his time to

the job, and hold him responsible for results. The board of education acts through a superintendent of schools; the board of health entrusts the daily routine to a health director. This is especially true in the larger cities, but even in the smaller communities there is a growing tendency for unpaid or little-paid boards to devolve most of their work upon full-time technicians. The saving contemplated by the advocates of the board system is thus wiped out.

Boards and commissions have a number of serious defects, some of which have already been suggested. Perhaps most serious of all, they often entail unnecessary delays. Disagreements over minor details result in deadlocks, and until the disputes are settled the municipal administration stands still. The need for action is subordinated to the desire for debate. Then, too, the board system diffuses responsibility. It puts control in the hands of a number of persons, instead of one. If the members of the board are elected, or appointed for longer terms than the mayor, matters are made still worse, for there is no single individual to whom the people can look for results. To a certain extent, also, the board system as developed in this country means government by amateurs. For the men and women appointed or elected to an administrative board can usually be counted on to exercise every ounce of their legally given authority. They may employ an expert, and defer to him in some minor matters, but at any time they are likely to take control in their own hands and override his judgment. They have scant respect for his superior training and greater familiarity with the field. In England, where borough administration is regularly placed in the hands of council committees, exactly the opposite tradition prevails. The laymen acknowledge the superior fitness of the technician, and follow his advice as a matter of course. President Lowell tells of a meeting with a "vigorous expert" in charge of a phase of borough administration. He asked the expert what would happen if the council committee supervising the work "insisted on doing something that he did not approve. He said he should tell them that he could not take the responsibility for it; that

they must pass a vote ordering it and put it on record. He said they would never assume the responsibility in such a case. They are not Americans, they are English."[8] Any person who stresses the importance of board administration for all principal municipal activities must remember the fact that he is dealing with American and not European conditions. For Americans are unwilling to hold the form of power without the substance. Give amateurs the legal right to control the expert, and they will control him. They have been taught to accept the Jacksonian dogma that every man is sufficiently qualified to perform the most difficult tasks of government.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, pp. 422-53.

Capes, W. P., *The Modern City and Its Problems,* New York, 1922, pp. 45-53.

Gilbert, A. B., *American Cities: Their Methods of Business,* New York, 1918.

Head, Louis P., *Measuring the Efficiency of a City's Government,* Dallas, 1927.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chaps. XVIII, XXI and XXIII.

—— *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXIII and XXV.

Reed, T. H., *Municipal Government in the United States,* New York, 1926, Chap. XVII.

Ridley, Clarence C., *Measuring Municipal Government,* New York, 1926.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. I.

—— ed., *The Government of Cincinnati and Hamilton County,* Cincinnati, 1924.

Weber, G. A., *Organized Efforts for the Improvement of Methods of Administration in the United States,* New York, 1919.

White, L. D., *Introduction to the Study of Public Administration,* New York, 1926.

Willoughby, W. F., *Principles of Public Administration,* Baltimore, 1927.

Wisconsin Conference on Social Work, *Citizens' Survey, Measurement Standards for Community Activities,* Madison, 1927.

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[8] *National Municipal Review,* January, 1915, p. 28.

Buck, A. E., "Measuring the Results of Government," *National Municipal Review,* March, 1924.
Lowell, A. L., "Expert Administration in Popular Government," *American Political Science Review,* February, 1913.
Upson, L. D., "The Squeal Book," *National Municipal Review,* November, 1927.

CHAPTER XVII

THE MERIT SYSTEM

Every year the cities of the United States pay out more than a billion dollars in salaries and wages. This vast sum represents half of their total appropriations. In the civil service of every large city are hundreds or even thousands of persons. New York, the giant of them all, carries the names of one hundred and sixteen thousand men and women on its payroll, at a cost of more than six hundred thousand dollars a day. Even Minneapolis, a municipality of more moderate size, has seven thousand full-time employees. The number of city workers increases every decade, as the cities grow and as they are called upon to perform new functions and spend correspondingly larger sums. At the beginning of the nineteenth century Philadelphia, then the second largest city of the New World, employed about one hundred and twenty-five persons—one employee for every three hundred and thirty inhabitants. Today the number of Philadelphia's civil servants, exclusive of public school teachers, is twenty-one thousand, or one for every ninety residents. In other words, the civil service has grown more than three times as rapidly as the population. Much the same situation prevails in every large city. Every increase in population makes necessary a far more than proportionate increase in municipal employees.

The selection and supervision of city workers, and their organization into efficient units, is therefore a matter of the greatest importance. Every taxpayer has the right to know that he is getting a reasonable return for his contribution to the municipal payroll. As a matter of fact, the average man is strongly inclined to the opinion that the return is far from adequate. He believes that most city workers are loafers, that they could not hold their own

in the progressive world of modern industry, and that municipal employment offers them a shield against the onslaughts of keen competition. He sums up his creed in three words: "Politics are rotten!" And he assumes, as a corollary, that all city employees have been selected because of political influence.

Of course, there is good reason for this cynicism. The day is not long past when virtually all the men and women in the service of the city were party workers, rewarded for their party activities with sinecures at the public expense. Even at the present time the pressure of partisan politics is not infrequently brought to bear on the administrative service. It may be added, too, that city workers selected by means of formal tests, without regard to partisan considerations, are not always models of efficiency. The administrative service is not invariably so organized as to produce maximum results. In a phrase, the taxpayer seldom gets one hundred cents of service for every dollar he pays into the municipal treasury. But where could he expect to find one hundred per cent efficiency? Certainly not in the average factory or the average store. Business needs its efficiency experts, perhaps just as much as government. The men and women in the fields of industry and commerce and their fellow workers in the service of the city are all afflicted with the same diseases—laziness, carelessness, incompetence.

The real question is: are municipal employees less able, less accurate, less interested—in short, less efficient, than the workers in the world of business? The answer almost invariably given is an emphatic *Yes!* It may be the correct answer. Probably it is. But no one really knows, for there is no reliable way of making comparisons. The discovery that a city treasurer has deposited large sums of city money to his own account, or that a city inspector reports for work at ten o'clock and leaves at three, is not conclusive proof. Bank cashiers have been known to abscond with funds not their own, and many clerks in business offices make it a point to do as little work as possible. The world of business, of course, has an infallible test—the test

of profits. Every private enterprise must show a net gain, or ultimately go bankrupt. As soon as the balance appears on the wrong side of the ledger, a searching investigation is in order. Those responsible for the deficit are certain to be called to account. They cannot hope to remain long on the payroll. They know that business exists for but one purpose—to make profits; and that when profits cease the business it not likely to continue long in operation.

But there is no such infallible test which can be applied to city government. Our cities do not carry on their activities for the purpose of making money, but of spending it. If city employees prove careless and indifferent, they need have no fear of bankruptcy. The only result will be a rise in the tax rate. And it can always be argued that increased taxes mean greater activity instead of greater neglect. An efficient city may actually spend more, or less, than an inefficient one. There is no way of telling, unless perhaps by a detailed analysis of every service. And the difficulties in the way of comparing services have already been suggested.[1] It is unscientific, therefore, to say that municipal employees are less efficient than private workers. Such a generalization may well be true, yet there is at least a possibility that it is not. The evidence is strong, but only circumstantial.

Cities are undoubtedly handicapped by the fact that their employees are, for the most part, also voters. For since they are voters they are, indirectly, employers. They have a voice, through the ballot, in every matter which concerns them, including the conditions of their employment and the salaries they are to receive. A friendly councilman may be persuaded to introduce a bill increasing wages in the municipal service, or may even do so of his own volition —just before election time, of course. Every municipal employee is at once aroused. Pressure is brought to bear on all the members of council to "vote right." And in all probability the bill will become law. Councilmen dare not oppose it. For they know that if they vote in the negative they are certain to lose the support of the men and women

[1] See pp. 360-5.

in the administrative service. These men and women constitute only a small percentage of the electorate. But to their votes must be added the votes of relatives and friends. The total is often enough to decide a close election. A small minority, united and determined, can accomplish surprising results. It may hold the balance of power, because the remainder of the voters are likely to be divided. This is the reason that municipal wages, and salaries in the lower groups, are usually somewhat above the level of private business. Councilmen are quick to seize the opportunity of gaining a few more votes by the simple expedient of voting small increases all along the line. They usually omit the higher paid executives from the list, however. Bureau chiefs and department heads—in fact, all city employees in the twenty-five hundred dollars and up class—are notoriously underpaid. They receive far less than the men and women who hold corresponding positions in the business world. Council is as parsimonious to them as it is generous to their subordinates. For economy must be practiced somewhere to please the taxpayers, and the higher salaried men do not control enough votes to make them dangerous. Compared with industry, city government has a surprisingly small salary range. The scrubwomen may receive a thousand dollars a year, and the city manager seven thousand. Contrast this with any large business house, where the scrubwomen are paid seven hundred and fifty dollars, and the president seventy-five thousand. Another unfortunate effect of the dual position of the city employee as worker-voter is that deflation of the payroll is made extremely difficult. There are times in the experience of every city when it finds that it is overstocked with employees. Some important piece of work has just been finished, perhaps, and the men who carried it to completion are no longer needed. Ordinary common sense would suggest that they be dropped from the city's payroll. But councilmen are not governed by the rules of common sense. Their political sense tells them that to dismiss summarily hundreds or even thousands of workers would be a very bad policy. So they pass the legislation necessary to make

all the temporary jobs permanent. They gain a few votes, and the city pays the bill.

It may be impossible to say whether the taxpayers are getting forty, sixty or eighty cents' worth of service for each dollar of taxes. One thing is reasonably certain, however. They are getting far more today than they did half a century ago. The last fifty years have witnessed a remarkable change in standards of municipal administration. 1880 and the four or five decades preceding it were the heyday of the spoilsmen. Positions in the public service were regularly given as a reward for party activity. There was no secrecy about this practice; almost everyone regarded it as a matter of course. A few persons objected, and declared that public work should be in the hands of those most competent to do it. As early as 1877 a Civil Service Reform Association was formed. But nothing tangible was accomplished in the field of city government until 1884, when a New York law went into effect providing that the employees of all the cities in the state should be selected by means of formal examinations. Massachusetts cities were put under similar regulations before the end of the year, and from that time the spread of the merit system was rapid. The idea of public servants chosen by competitive tests, rather than political influence, appealed to the popular imagination. In nearly all the larger cities civil service commissions were set up. Today the merit principle is accepted, at least in part, by virtually every city with a population in excess of one hundred thousand, and civil service commissions function in many of the smaller municipalities. In so far as municipal administration can be taken out of politics merely by setting up a commission and establishing the legal requirement that employees shall be selected on the basis of merit, the fight is virtually over for the large metropolitan centers. The lesser cities, too, are rapidly falling into line.

But it must be admitted that civil service reform has not lived up to its high promise. Though it has accomplished a great deal of good, it has fallen far short of its possibilities. In most cities it has failed to keep pace with the de-

velopment of modern personnel work in industry. It has brought some unforeseen evils in its train. The civil service commissions set up in American cities have made many errors, and have left many things undone. Their faults have been both of commission and omission. Sometimes they have failed to produce maximum results because of circumstances beyond their control. But for one reason or another the cities of the United States, as a group, are still a long distance from the ideal of a civil service recruited and maintained solely on the basis of merit.

Weaknesses of the Merit System

Wherein has civil service reform failed? What more might reasonably be expected of it? In the first place, civil service commissions have not entirely succeeded in wiping out the spoils system. Some of them have been handicapped by clumsily worded laws. Some of them have been hampered still more by an overwhelming desire to please the professional politicians. Some of them, of course, have performed their tasks thoroughly and well, establishing standards of administrative efficiency which serve to show the possibilities of the merit system. But in most cities the way is still left open for occasional or habitual interference with the merit principle. The crudest form of interference, probably not very common, is actual tampering with the scores given in examinations. The examiners are not supposed to know the authors of the papers they rate, and elaborate provisions have been inserted in the laws for the purpose of insuring secrecy. But any safeguard that man can devise man can destroy; and instances sometimes occur of political favorites with no knowledge of a subject receiving higher scores than men and women who have become specialists in it. A more common trick is the raising of all scores five or ten points. The person to be benefited is thus given a passing score, and can be legally appointed in some cities, since their laws provide that the names of all candidates passing the examination shall be submitted to the appointing authority.[2] Then

[2] See p. 395.

there is the practice of quashing the eligible list. When the water bureau or the division of street lighting needs a junior clerk, the civil service commission may find itself in possession of a list of eligibles, perhaps inherited from a previous administration. The list is unsatisfactory, however, because it does not include the name of the ward heeler slated for the job. So the commission announces that the old record is inappropriate, and proceeds to hold a new examination.

By far the most common way of evading the merit principle, however, is to give a provisional appointment to the person preferred. Every civil service law provides that in case of emergency, or in the absence of an eligible list, provisional appointments may be made, not to exceed a certain period, perhaps three months. Some such clause is probably necessary, because there are times when unforeseen conditions or inadequate examining staffs may force bureau chiefs to act, without waiting for formal examinations to be held. But it is astonishing how frequently such "unforeseen conditions" arise in the municipal service. Many times the number of provisional appointees on the city's payroll is a considerable percentage of the total number of city workers. Some years ago the Civic League of Cleveland reported that seventy-five per cent of the men and women in the service of that city, exclusive of policemen and firemen, were "temporary appointees," holding their posts without any sort of examination, competitive or otherwise.[3] Of course, persons temporarily appointed are required by law to resign or else take a competitive examination after a few months. But sometimes the law is flagrantly violated. One city employee is known to have retained a provisional appointment for nineteen years,[4] and he may not be the record holder. Small wonder that the

[3] Report of the Special Committee on Civil Service of the National Municipal League, published in the *National Municipal Review* for August, 1923. See p. 450.

[4] Report of the Committee on Civil Service of the Governmental Research Conference of the United States and Canada. Excerpts from this report are conveniently published in Jos. Wright's *Selected Readings in Municipal Problems*, pp. 474-82.

expressive term, "permanent temporaries," has come into use! Even if the letter of the law is met, however, and the provisional appointee takes a competitive examination after several months of service, he has a marked advantage over the other applicants. For the questions are sure to be related rather closely to the work he has been doing. Unless he is a very stupid fellow he is almost certain to have picked up enough information to make a high score.

Certain officials are exempted from the operation of the civil service laws. They may be appointed without examination. They include department heads and bureau chiefs as a rule, and also private secretaries who must be entrusted with secret business. Sometimes the exemptions are made so numerous as to destroy the merit principle. Positions of every description are placed in the exempt class, without any apparent reason except a desire to placate the professional politicians. As a result, the faithful may be duly rewarded after each election without the embarrassing necessity of violating the law.

Even those civil service commissions which have escaped the deadening influence of politics do not always meet with public approval. They are popularly supposed to emphasize the elimination of the obviously unfit, rather than the selection of the best. It is often said that they may prevent fools and ne'er-do-wells from entering the municipal service, but certainly fail to provide a technique for separating the good applicants from the near-good. The blame is usually laid at the door of the questions asked, and it must be freely admitted that in the past the examinations have not been always suitable. When the civil service commissions first began to function, less than half a century ago, they were pioneering in a new field. They had no generally accepted standards to guide them. And quite often their questions were poorly designed to show the qualifications of applicants for the vacancies at hand. Some were carelessly phrased, some were ambiguous, and not a few were irrelevant. But those days have largely passed. The commissions have made great progress in the last quarter of a century. They have developed examina-

tion questions and examination methods designed to show with some degree of accuracy the fitness of each applicant. Yet the popular impression still persists, fostered no doubt by the spoilsmen, that typists are asked the distance from the earth to the sun and the chemical formula for zinc oxide, while carpenters are given the task of writing a few stanzas of verse.

As a matter of fact, most of the ridiculous questions so often imputed to civil service commissions probably had their origin in the fertile brains of the professional humorists and professional politicians. Today the better commissions are developing surprisingly good tests, closely related to the work to be done. What is more, their lead is being followed nearly everywhere. Easiest of all, of course, is the selection of day laborers. No special training is required, and a physical examination suffices. Nor do skilled laborers—carpenters, bricklayers, mechanics—present any unusual difficulties. The examination consists chiefly in a demonstration of skill. Bricklayers are asked to lay bricks, plumbers are directed to wipe joints, automobile mechanics are set to work finding motor car troubles and making standard repairs. If a written examination is also used, it consists of practical questions closely related to the work. A painter, for example, is asked how to preserve an unused portion of a keg of white lead, or how to remove a wet daub of paint from painted woodwork. Typists, clerks, bookkeepers may also be weeded out with relative ease. A typist is given some letters to copy, and is judged according to speed, accuracy and neatness. A bookkeeper is given hypothetical entries to post. Questions dealing with mathematics and the use of English are practical. Irrelevant material is largely excluded.

High salaried posts present a more complicated problem. Men capable of filling them cannot be chosen by the older type of examinations. Take the position of city engineer, for example. The salary may be eight or ten thousand dollars a year. A great many qualifications are desired. The successful applicant should be an engineer, of course, familiar with municipal problems and the manner of solv-

ing them. But he should be something more. He should be a man of vision, tact, courage, with some understanding of how to handle the men under his direction and how to maintain contacts with the public. What examination or series of examinations will reveal these characteristics? How can a suitable person be found by means of civil service regulations?

It used to be taken as a matter of course that the scope of the merit system could not be extended beyond the small jobs. Department heads, bureau chiefs, and even some of their better paid subordinates were regularly exempted from the classified service. In many cities they still are. But the development of civil service technique has made such a policy no longer necessary. Every person in the municipal administration, from the city manager [5] on down, may now be chosen on a merit basis, unless the politicians interfere. The technical difficulties are rapidly disappearing. It is commonly argued, however, that the heads of departments should be political officers. They should advise the chief executive on matters of policy. They should form a united cabinet, loyal to their chief, and ready to retire at the expiration of his term. This line of reasoning, however, shows a confusion of ideas. It is generally conceded that department chiefs should advise the head of the administration, and that they should form a cabinet for the purpose of discussing problems with him. It is axiomatic that they should be loyal to him. But it does not at all follow that they must be politicians instead of technicians, and that their careers must be dependent upon the political fortunes of their superior. The coming of the city manager plan, with its concept of a chief executive divorced from politics, has done much to popularize the idea of non-political department heads.

High Salaried Positions

Of course, the examination given to applicants for an important, high salaried position in the municipal service is

[5] City managers are usually chosen because of their ability as administrators, but the selection is not made under civil service regulations.

very different from the tests used for clerks and stenographers. Training and experience count for much more. Personal interviews may be an important factor. In all probability the rival candidates will never be brought face to face. Instead they will be permitted to take the written portions of the examination, if any, where they please—perhaps at their homes or offices. This kind of test is called *non-assembled,* since the applicants are not asked to assemble at one place. It is thus distinguished from the much more common assembled examination, which requires all the candidates to come together at one time and place. The entire non-assembled examination may consist of three parts, weighted somewhat as follows:

Training and experience.....	Weight	4.5
Discussion of practical problems.....	"	3.0
Personal fitness.....	"	2.5

Under the title "Training and Experience" the following directions are typical: [6]

"Submit a complete statement of your education and professional training. Give names of institutions attended, diplomas or degrees conferred, with dates. Submit a complete statement of your experience with dates, giving names and addresses of your employers, exact nature of your duties, salaries received, and reasons for making changes. State your professional connections, membership in societies, papers prepared or published, reports for which you were responsible."

Then comes the discussion of practical problems. Each applicant may be asked to prepare a paper of four or five thousand words dealing with a technical matter closely related to his prospective employment. Some latitude is usually given as to the exact form of the paper and the manner of presentation. Afterwards personal fitness is determined by an interview. The examiners may be experts brought from other cities. Perhaps a few words of caution

[6] Taken from a promotion examination given by the Philadelphia Civil Service Commission for the post of Chief Engineer and Surveyor of the Bureau of Surveys, Department of Public Works. (Salary, $8,000 a year.)

should be added at this point. Non-assembled examinations for higher positions do not always follow the outline given above. They may omit altogether the requirement of a technical essay. They may place greater emphasis, or less, on training and experience. But almost invariably they seek to learn what each applicant has already done, and judge him in part by means of a personal interview.

All the examinations discussed thus far, whether assembled or non-assembled, have been competitive. Resort is sometimes had, however, in the case of important positions, to *non-competitive* tests. The law may give the head of a department a great deal of leeway in choosing his bureau chiefs, for example. It may impose only one restriction—that the men he selects must meet the standards set up by the civil service commission. Under such circumstances the examinations given are non-competitive. There is but one candidate for each post, and he is sure of appointment if he receives a passing grade.

For those positions which require good physique, every applicant is usually required to take a qualifying physical examination. Sometimes this requirement is extended to virtually all positions in the classified municipal service, in order to obtain some assurance that the city's administrative work will not be entrusted to persons handicapped by poor health. It becomes even more important when a city establishes a pension system, and guarantees a permanent income to every person disabled by illness while in its employ.

The civil service law usually provides that after an examination for any position has been held, the commission shall submit to the appointing authority the names of the two or three persons who stand highest.[7] This is done on the theory that the one with the highest grade may prove unsatisfactory for reasons not disclosed by the commission's test. He may be ill-natured, untidy, or simply of a different temperament from his superior. Whatever the reason, he is not wanted. So the appointing officer is at liberty to

[7] In Chicago, Detroit, Minneapolis and some smaller cities, however, only the highest name is submitted.

select Number 2 instead, or even to choose between Number 2 and Number 3. Unfortunately, his choice is frequently dictated by political motives. The person who stands first may have little likelihood of securing the post unless he is so fortunate as to number powerful politicians among his friends. Most persons interested in the development of the merit principle therefore insist that only the highest name should be submitted to the appointing authority, making certification by the civil service commission equivalent to appointment. The trend of the times is toward the reduction of the number of names which must be submitted, from three or four to two or even one. A counter tendency is evident, however, among some of the manager cities, notably Kansas City and Dayton. Their charters are predicated upon the theory that administrative officials are worthy of confidence, so it is not surprising that the civil service commission is directed to certify the entire eligible list.

It is customary to require local residence, and sometimes American citizenship, as prerequisites to employment in the service of the city. This is unfortunate, for it means that the best qualified men and women may be excluded. Still more unfortunate is the practice of giving some form of preference to war veterans—adding five, ten or fifteen points to their scores, or even placing their names at the head of the list if they succeed in passing the examination. For veterans with grades of sixty-five or seventy are not likely to give the city as much in return for what it pays them as non-veterans with marks of ninety-five or one hundred. Fundamentally, the requirement of veteran preference is a denial of the merit principle. It is based on the same theory as the spoils system—that public office is a reward for services already performed. The only difference is that the services have been performed for the nation instead of the party machine. And from the standpoint of administrative efficiency the distinction is not vitally important. The argument may well be advanced that war veterans came to the aid of the public in a time of crisis, and that with the passing of the crisis the public

should pay its debt of gratitude. The point is well taken. Let the public pay its debt, but not with jobs in the municipal service. That way of showing appreciation is too expensive.

The most vital defect of the merit system, as it has developed in a great number of American cities, is that it has placed virtually its entire emphasis upon the *selection* of municipal employees. It is essential, of course, that city workers be chosen without regard to partisan affiliation, and with a view to their ability. But the selection of employees ought properly to be only one of the tasks of the civil service commission, and perhaps not the most important. The commission should standardize salaries, hours of employment, and working conditions; it should keep adequate efficiency records; it should promote the training of new employees; it should certify payrolls; it should carry on research.

Consider the matter of salary standardization. A glance at the payroll of the average city shows that some "junior clerks" are receiving only seventeen hundred dollars a year, while others are paid as much as four thousand. The salaries of "inspectors" range all the way from twenty-five hundred dollars to six thousand. A number of questions immediately arise. Do all junior clerks or all inspectors do substantially the same work, and have substantially the same responsibilities? If so, why are they paid such widely varying sums? If not, why are they given the same title? Obviously some sort of classification of city positions should be made. Each position should have its appropriate title, its minimum and maximum compensation, its qualifications for appointment and promotion, and its clearly stated duties. The civil service commission could then make certain that all persons doing approximately the same work received approximately the same pay. Any other arrangement breaks down the morale of the city's working force. It soon becomes a matter of general knowledge that some political favorites with imposing titles and still more imposing salaries are really holding sinecures, loafing on the job with the knowledge and approval of their superiors. So those less favored are apt to decide that they

too will follow a consistent policy of doing as little work as possible.

It would simplify matters greatly if all municipal positions could be grouped together and listed under forty or fifty titles, but that is impossible. The administrative service of a great city is not such a simple piece of mechanism. It comprises large numbers of persons performing genuinely different tasks. It includes not only bricklayers, carpenters, plumbers, bookkeepers, typists and clerks, but also dietitians, dental hygienists, chemists, psychiatrists, bacteriologists. No two of these could be selected by a single examination. No two have the same duties, and perhaps no two should receive exactly the same compensation. A large number of groups is therefore necessary. Four or five hundred classes of positions, or even more, may properly be established in one of the large metropolitan centers. But even this number would mean a considerable reduction. In Philadelphia, for example, the civil service commission now recognizes about twenty-two hundred different kinds of jobs in the municipal service. Obviously there are a great many cases where persons with the same training, performing approximately the same type of work, are listed under varying titles. And there are corresponding variations in their salaries.

It is important, too, that hours of work be standardized throughout the municipal service. Something is probably wrong when the bureau of charities closes its doors at three every afternoon, the bureau of recreation ends its day at four o'clock, and the board of tax revision keeps open until five. There may be sound reasons for these differences, but they do not appear on the surface. Unless they can be found after closer investigation, the differences should be abolished. A standard work-day should be agreed upon, and all the city's administrative agencies required to conform to it. Also there should be uniform procedure with regard to vacations, holidays and sick leave. Working conditions affecting the health, safety or comfort of employees should be placed on a uniform high level. The commissions often lack power to bring about these changes, but charter

amendments in many cities are gradually extending their authority.

One phase of every civil service commission's activities should be the development of an adequate system of transfers and promotions. It frequently happens that one bureau is badly in need of an additional clerk, while another bureau has an excess supply of men doing approximately the same work. Under the circumstances the sensible procedure would be to transfer a clerk from the bureau which did not need him to the bureau which did. But this cannot be done, of course, unless every bureau knows what is happening in every other, or unless some central agency is familiar with personnel conditions throughout the municipal service. The civil service commission should meet the need for a central agency, but all too often it has inadequate records, or no records at all. When a bureau chief makes a request for a new stenographer, it proceeds to hold an examination for the position. It has no way of knowing whether someone already in the city's employ would meet the need. There is also another sound reason why a transfer system should be developed. Municipal employees reported as chronically unsatisfactory by one bureau chief may be the victims of temperamental differences. Under another superior they might meet every requirement. At any rate, the only fair policy is to transfer them, and thus give them a second opportunity to prove their fitness, instead of discharging them immediately. This may not always be possible, and under some circumstances it may not even be desirable, but without any doubt it could be tried much more extensively than at present. As to promotions, commission records of efficiency should play an important part.

There are, in fact, many reasons why careful records should be kept, showing the quantity and quality of work done by every employee in the municipal service, the number of unexcused cases of lateness and absence, and other important aspects of his service. Even in their present crude form these records serve as the basis, not only for promotions, but also for increases in pay, dismissals, transfers, requests by employees for vacations or leaves of ab-

sence. They enable every department head to obtain some knowledge of the weak spots in his organization, and to set about the task of improving its efficiency in an intelligent manner. They virtually compel careful supervision of the work of subordinates. As a group, city employees have consistently opposed the use of efficiency records, but many of the larger cities have now adopted them. The problem of making them entirely satisfactory still remains to be solved, however.

One of the important tasks of the civil service commission is the certification of payrolls. It is customary to send each payroll to the commission before any money is paid out from the city treasury, in order to permit the list of names to be checked against the official list in the commission's possession. Unless this work is carefully done it is quite possible for unscrupulous bureau chiefs to pad the payroll with the names of fictitious persons, pocketing the unearned wages. Practices of this sort were fairly common a few decades ago. In one New Jersey city the name of "H. Bell" was carried on the municipal payroll for many years. Investigation finally disclosed that although H. Bell had indeed served the city long and faithfully, he had never received the money supposedly paid to him. For H. Bell was a horse![8] Today payroll padding is far less frequent, but by no means unknown, as evidenced by affairs like the Des Moines scandal of 1925, which put four city employees behind the bars.[9] As a rule, it is due to the carelessness of civil service commissions. Many of them do nothing more than compare the current payroll with the preceding one, instead of making a comparison with the official list from time to time.

For many types of municipal activity it is difficult to secure thoroughly trained persons, already familiar with the technique of their work. In this category are police and fire protection. The average applicant for a position as a policeman or fireman has at best only a hazy notion of his duties, and how to perform them. It becomes neces-

[8] Buck, A. E., *Municipal Finance*, p. 5.
[9] See p. 231.

sary, therefore, to set up training schools for the benefit of those just entering the service. New York has probably gone farther than any other city in establishing various courses of instruction for its employees. It trains its policemen, firemen, social workers, building inspectors. Some of the courses are designed for persons who have been in the municipal service a number of years. They lead naturally to promotion. While instructional work of this sort must remain under the control of the separate departments, it can be encouraged and developed by the civil service commission.

Not least important among the commission's duties is the recruiting of men and women for the municipal service. Those who may be interested in taking an examination must be notified that it is to be held. Full reliance cannot be placed on a bulletin board announcement in some obscure corner of the city hall. This fact is recognized by the civil service laws, which usually provide that "suitable notice" must be given in one or more newspapers—a requirement legally fulfilled by inserting two or three lines of classified advertising. Of course, such meagre notice is not really adequate. A genuine attempt should be made to reach all interested persons. There should be news stories in the daily papers, for example, for the papers are glad to print such information as news if it is given a touch of what they call "human interest." There should be advertisements in technical journals, or perhaps letters to schools or business colleges, according to the nature of the work. For some of the higher salaried posts the commission may find it necessary to get in touch directly with persons whose fitness is known. Whatever the methods used, they should be more carefully developed than is customary in most cities at the present time.

Part of the time of civil service commissions should be devoted to research. Studies should be made of experiments in other cities and in private industry, and the results obtained. Careful attention should be paid to the methods now employed for the recruiting, selection, training and supervision of public and private employees. Unusual

success or marked failure should be noted, and made the subject of special investigation. Only in this way can a scientific technique of personnel management be developed. Unfortunately, city officials are slow to recognize the value of research, and the general public is equally sceptical.

What Has Retarded the Merit System?

In most small cities, and even in many large metropolitan centers, the civil service commissions perform only a few of the functions listed above. Such matters as salary standardization, efficiency records, employee training and research are given scant attention. Even the better commissions are defective in some respects. It is doubtful if any one of them is doing all the things it should, and doing them well. There are many reasons, of course, for the failure of civil service commissions to live up to their full possibilities. In most cities they are badly handicapped by the laws. Duties which should properly fall to their lot have been omitted entirely from city charters. Methods which they should adopt have been tabooed by the state legislature. But the laws are not always to blame. Quite frequently the commissioners are politicians, appointed as a reward for their party industry and loyalty. Under such circumstances it is vain to hope that they will even attempt to stamp out the spoils system. They will naturally manipulate examinations in favor of their fellow precinct and ward workers. There are many cities, of course, where politics have been virtually eliminated from the civil service commissions. The members are appointed without regard to their partisan affiliations. But the mere fact that they are not party workers is by no means a guarantee of their fitness. Far from it. It is probably safe to say that the large majority of civil service commissioners in the cities of the United States have no real understanding or appreciation of their work when first they take office. They may be barbers or bankers, butchers or brokers. Very often they are lawyers. But their previous training and experience have not usually been of the kind to fit them to deal intelligently with the employment problems of a great city.

Personnel management has made rapid strides in recent years. It has developed an elaborate technique. It has requisitioned the services of the physician, the psychologist, the economist and the efficiency engineer. But how can the average—or even the exceptional—lawyer keep abreast of these developments? How can he master in a few short months or years the terminology and the methods of a profession not his own? Only a few cities have recognized the essential and obvious fact that those controlling the municipal employment policy should be trained to deal with the problems of employment. Many a commission has been further handicapped by the constant turnover in its membership. As soon as a commissioner acquires an appreciation of personnel problems and an understanding of personnel technique, he resigns, is removed, or fails to receive reappointment at the expiration of his term, and his place is taken by someone else. Data collected from twenty cities show that over a considerable period the average length of official life of civil service commissioners was less than four years.[10] In other words, they never got beyond what might be called the apprenticeship period. Inadequate appropriations have also served to reduce materially the effectiveness of the commissions. They have been obliged to struggle along, especially in the smaller cities, on sums far below their needs. They have been undermanned and overworked. Now it is quite obvious, or ought to be, that if the civil service commissions are to carry out effectively any considerable portion of the program outlined above, they must have a full quota of trained workers and an adequate stock of technical equipment. Most of them should have their appropriations multiplied by three, at the very least.[11]

Dismissals

There is no general agreement as to the proper manner of providing for the dismissal of employees who have failed to give satisfaction. Most city charters permit administra-

[10] *National Municipal Review*, August, 1923, p. 448.

[11] The National Municipal League's committee suggests an even larger increase. See the *National Municipal Review*, August, 1923, pp. 467-8.

tive officers to remove subordinates at their discretion, after a probationary period which is usually fixed at six months. The employee has a certain measure of protection, however. Formal charges against him must be prepared and filed with the civil service commission, so that in every case he knows the reason—or at least the alleged reason—for his dismissal. In some municipalities he is permitted to make reply. His statement and the statement of his superior then constitute a permanent public record. He loses his position, however, for all that. A number of cities have gone still further in their effort to protect the employee against unwarranted removal, especially for political reasons. They provide for a formal trial before the civil service commission. Superior officer and subordinate must both appear before the commission, each presenting his aspect of the controversy. The employee may even be represented by counsel if he desires. After all the evidence has been presented, the commission determines whether the offense complained of was actually committed, and, if so, whether dismissal is justified. It therefore makes the final decision, taking the matter out of the hands of the employee's direct superior.[12] Needless to say, such an arrangement is likely to destroy discipline. It may force an administrative official to match wits with his subordinates, and perhaps with their attorneys, in a public spectacle. And the contest is not often fair, for such charges as carelessness, indifference or general inefficiency are difficult to prove. To a considerable extent they may be matters of opinion, not readily supported by tangible evidence. A clever attorney is often successful in picturing the employee he represents as a victim of gross injustice, whatever the real facts may be. He alludes to department secrets and alleged department scandals. He drags out every skeleton in the department's closet. And after a few such experiences the average municipal official is apt to come to the conclusion that the wisest policy is to retain all his subordinates indefinitely,

[12] Some cities limit the civil service commission's control over removals to the police and fire departments. A few charters provide that dismissal cases must be taken to the courts.

regardless of their fitness. His attitude soon becomes known throughout the department, and may be reflected in a general lowering of department standards.

It is sometimes said, of course, that the civil service commission should be given control over removals in order to prevent the wholesale discharge of city employees for purely political reasons. But the assumption ought not to be made that civil service commissioners are exempt from partisan activity. All too frequently they are more directly under the influence of the party machine than the heads of the primary administrative departments. When subordinates are dismissed by their department chiefs, only to be reinstated by the civil service commission, perhaps because of political considerations, it is utterly impossible to fix responsibility. No official can fairly be held accountable for results if he is compelled to retain subordinates who have proved their disloyalty or ineptitude. The proper remedy for political dismissals is a wide-awake public opinion, and not control by the civil service commission.[13]

The typical municipal civil service commission is a bi-partisan body of three members with overlapping terms, appointed by the chief executive for a period of from two to six years. The commissioners serve only part time and receive part-time pay. They then employ a full-time secretary or chief examiner, who has charge of the daily administrative routine. Of course, there are many variations from this typical commission. In New Jersey and Massachusetts the state commissions have direct control over the civil service of the cities, while in New York and Ohio they exercise a measure of supervision. Though bi-partisan representation is the rule, a number of cities have modified this requirement to the effect that no commissioner may take part in political activities. Philadelphia, Denver and some other municipalities place the appointment of the commission in the hands of council, instead of the executive. An interesting experiment is being tried in Kansas City and St. Paul. In each of these cities the commission

[13] For a contrary view, see *Public Personnel Studies*, February, 1928, Vol. VI, No. 2, pp. 24-45.

has been replaced by a single commissioner, who is made fully responsible for the municipal employment policy.[14]

Pensions

A few words should be said at this point about municipal pension systems. They are seldom administered by the civil service commission, but they are so closely related to the problem of securing and retaining efficient employees that they ought to be included in any discussion of municipal personnel problems. The city which has no pension system is confronted with a serious problem when its workers are incapacitated by sickness, accident or old age. For it must face the alternative of rewarding their years of service with dismissal or of retaining them on the payroll simply as a matter of gratitude. Usually it follows the second course. It permits the payroll to become clogged with the names of men who do virtually nothing in exchange for the salaries they draw, serving only to prevent the promotion of ambitious younger men to places of influence. The efficiency of the entire municipal service is impaired. Thus the retention of decrepit employees becomes in fact a kind of pension system—the most expensive kind of all. It would be far kinder to the public servant, and far cheaper for the taxpayer, if every city made systematic provision for pensioning those injured or grown old in its employ. Only recently has this rather elementary fact received widespread acceptance.

The first municipal pensions were granted as a result of strenuous pressure by certain groups of employees. The policemen in one city, or the firemen in another, succeeded in inducing council to meet their demands. Other groups which lacked initiative or political influence were ignored. No provision was made at first for contributions by the employees themselves. Nor was any attempt made to set up scientifically determined reserves. If the law made any reference whatever to reserves, it merely provided that the fees from certain licenses and permits—covering perhaps

[14] The state of Maryland and five Canadian provinces also have single-headed civil service commissions.

dogs, revolvers, dance halls and motion picture houses—should be set aside and marked as a pension fund. Naturally enough, these early pension laws gave general dissatisfaction. They aroused a spirit of discontent among the employees who had been neglected. They broke down financially. The New York City Teachers' Retirement Fund, for example, became insolvent in 1916 and had to be completely reorganized. Even today municipal pension systems contain unsound features. Most of them still omit certain classes of employees, without any apparent reason. Only half of the eighteen largest cities have adopted inclusive systems, and in this respect the smaller communities have proved even less progressive. Still more serious is the practice of many cities—Detroit, Philadelphia and Pittsburgh, for example—of keeping only small reserves, and paying benefits annually as they come due out of current revenue. This plan works fairly well in the years immediately following the establishment of a pension system, because a large portion of the employees are young or in middle life. But middle-aged persons soon become old, and in time the strain on the tax rate becomes almost unbearable. The only proper way to finance a pension system is to put it on an actuarial basis. The statistical information compiled by life insurance companies can be used to determine accurately what the city's obligations will be. There need be no guesswork as to how many years employees will live after retirement, nor as to how many of them will be incapacitated before they reach the normal age limit. These things can be worked out accurately, and suitable provision made in the earlier years of a system's existence for the heavier future burdens sure to come. Actuarial systems cost no more than the haphazard kind; they simply equalize a city's obligations. Within the past ten years a great many municipalities, including New York, Boston, Baltimore, Minneapolis and San Francisco, have accepted the actuarial principle, at least for parts of their service.

It is now rather generally agreed that employees, as well as the city, should be required to make contributions to

the pension fund. Both city and employees have something to gain from a pension system, and as a matter of justice both should help to support it. Moreover, it has been found that the workers make less extravagant demands when they must bear a portion of any added cost. They become much more willing to accept a pension schedule of moderate proportions. Joint contributions have still another advantage; they lead naturally to participation by the employees in the management of the pension system. In Pittsburgh, for example, two of the five members of the pension board are city workers chosen by their fellows. Similar plans have been adopted by Baltimore and Minneapolis, and Chicago has gone so far as to place majority control in the hands of the employees. Good feeling is thus developed, and a habit of co-operation formed. It is significant that Detroit, the only metropolitan center which has adopted a full-fledged pension system without requiring joint contributions, makes no provision for employee representation.[15]

The earlier pension systems commonly provided for retirement at the end of a given period of years—usually twenty-five or thirty. As a result, some employees were forced to leave the municipal service while still in the prime of life, and others were retained long after their days of usefulness had passed. Most present-day pension laws, however, base retirement on age instead of length of service.[16] It is customary to fix a minimum age limit, usually sixty years, at which retirement is optional, and a maximum of sixty-eight or seventy at which it becomes compulsory.[17]

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chaps. XVIII and XIX.

Buck, A. E., *Municipal Finance,* New York, 1926, Chap. VIII.

[15] Employees are given no share in the management of the New York and Philadelphia pension systems, however, though they are required to contribute.

[16] As a rule, however, a person is not eligible for a pension until he has served the city ten years or more.

[17] The age limits for policemen and firemen, however, are usually fixed somewhat lower than for the other groups.

Committee on Civil Service of the Governmental Research Conference of the United States and Canada, *The Character and Functioning of Municipal Civil Service Commissions in the United States,* Ann Arbor, 1922.

Conference Committee on the Merit System, *The Merit System in Government,* published by the National Municipal League, New York, 1926.

Foulke, W. D., *Fighting the Spoilsmen,* New York, 1919.

Fuld, L. F., *Civil Service Administration,* New York, 1921.

Marsh, E. C., *The Civil Service: A Sketch of the Merit System,* New York, 1922.

Maxey, C. C., *An Outline of Municipal Government,* New York, 1924, Chap. V.

Meriam, Lewis, *Principles Governing the Retirement of Public Employees,* New York, 1918.

Munro, W. B., *Government of American Cities,* 4th ed., New York, 1926, Chap. XIX.

—— *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XXIV.

Procter, A. W., *Principles of Public Personnel Administration,* New York, 1926.

Studensky, Paul, *The Pension Problem and the Philosophy of Contributions,* New York, 1917.

—— *Teachers' Pension Systems in the United States,* New York, 1920.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. III.

White, L. D., *Conditions of Municipal Employment in Chicago,* Chicago, City Clerk, 1925.

Committee on Pensions of the National Municipal League, "Pensions in Public Employment," *National Municipal Review,* supplement, Vol. XI, 1922.

Moses, Robert, "Standardization of Salaries and Grades in Civil Service," *American Political Science Review,* Vol. X, 1916.

Special Committee on Civil Service of the National Municipal League, "Employment Management in the Municipal Civil Service," *National Municipal Review,* August, 1923.

Public Personnel Studies, a monthly magazine, is especially valuable to every student of the merit system. The annual proceedings of the National Assembly of Civil Service Commissions and the publications of the National Civil Service Reform League should also be consulted.

CHAPTER XVIII

EXPENDITURES AND INDEBTEDNESS

THE cost of running our city governments is constantly increasing. In 1903 the cities of the United States spent slightly less than three hundred million dollars for current expenses. By 1927 they were spending nearly a billion and three-quarters, an increase of almost five hundred per cent. During this period their expenditures for permanent improvements also mounted at the same dizzy rate, totalling virtually another billion dollars in 1927.[1] Figures such as these are often cited as proof that the municipalities of the nation are spendthrifts, squandering the public's money heedlessly and trying to out-match one another in wastefulness. Of course, no such conclusion is warranted. Municipal officials are sometimes extravagant, but no more so today than formerly. In all probability they are returning to the taxpayers far better service, and more of it, for each tax dollar paid into the city treasury, than they did two decades ago. And that, after all, is the real test of city government. The important question is not whether the cities are spending more money, but whether they are spending it wisely.

There are a number of reasons why the cost of city government has mounted so rapidly since the turn of the century. For one thing, urban population has grown amazingly. Take, for example, the larger cities, with populations of thirty thousand or over. The total number of their residents has virtually doubled since 1903. Some municipalities have actually multiplied their population figures

[1] These figures of governmental cost payments are taken from *Financial Statistics of Cities, 1927*, publication of the U. S. Census Bureau. For an exact definition of the Census Bureau's term, "governmental cost payments," see the introductory pages of the work cited.

by eight or ten. And this population growth makes necessary large municipal expenditures. In fact, it involves a more than proportionate increase in the cost of running the cities. For city government is a business of increasing costs, as pointed out in an earlier chapter.[2] Other things being equal, the per capita as well as the total cost of city government tends to increase with every increase in the population. It must be remembered, too, that the present-day dollar is something very different from the dollar of 1903. Speaking in terms of 1903 currency, it is worth about fifty-seven cents. So of course the cities must pay out more dollars for wages, salaries and supplies. Virtually everything they need costs more.

But the most important reason for the increase of municipal expenditures is the multiplication of municipal functions, together with the improvement in municipal standards. The people of the cities are no longer satisfied with 1903 methods, nor with 1903 concepts of what might reasonably be expected of a city government. They demand and receive streets better lighted and paved, schools better built, equipped and manned, police and fire forces better paid, better trained and more efficient. They class health clinics, food inspection, recreation camps and golf courses among the necessities. And of course they must pay the bill. They should not be surprised if it runs into large figures.

Every city councilman is confronted with two conflicting demands from his constituents. One is for more and better services; the other is for reduced taxes. Frequently both demands are made by the same people. As members of the Better Homes League they petition council for more inspectors to enforce the tenement house laws. As motorists they ask for more miles of improved roads. Then, as taxpayers, they insist that the tax rate be kept down. It becomes necessary, therefore, for the councilman to choose between higher standards and lower taxation. He is not a magician, and cannot give both. As a rule he votes for higher standards, because the demand for them seems even

[2] See p. 123.

more insistent than for a lower tax rate. This has been the tendency for decades, and there is no apparent reason to think that it will not continue for some years to come. The popular clamor for multiplication and improvement of municipal services is still as loud as ever. In all probability, therefore, city tax rates will mount even higher in the near future. Certainly they will not be materially reduced for a long time.

Though it may be impossible, and perhaps undesirable, to curb the popular demand for more services, it is quite feasible to introduce economies which will keep taxes within reasonable limits. If some departments are spending more than they need, they can be cut off with smaller appropriations. If one method of floating city bonds proves wasteful, another method can be adopted in its place. But first it is necessary for a city to have a complete picture of its finances—where its money comes from, and how it is spent. A generation ago haphazard expenditures were the rule. American cities made no attempt to determine in advance what their needs would be, or how they would be financed. They fixed tax rates with but slight regard for expenses. And if taxes proved insufficient to pay the current expenses of any year, resort was had to borrowing.

The Budget Plan

In 1906 the newly created New York Bureau of Municipal Research suggested that city finances should be planned in advance, and that estimated expenditures should be kept within the limit of estimated receipts—in other words, that there should be a definite budget plan. Since that time the budget idea has become very popular. The average man, who knows nothing of the technique of public finance, has at least a hazy notion of what is meant by a budget. He is constantly advised, by newspaper and radio, to budget his money and his time. But when the New York Bureau of Municipal Research first made its proposal it struck a new note. There had been no previous recognition of the importance of financial planning. In a short time New York City was induced to make the experiment, and within a few

years the budget principle was adopted by many other municipalities in every section of the country. Today it is accepted, at least nominally, by virtually every large urban center in the United States, and probably by most of the smaller communities. This does not mean, however, that most American cities are planning their finances with proper care, or that their revenues always equal or exceed their expenditures. For there are many so-called budget systems scarcely worthy of the name, serving only as an excuse for adding a few more names to the municipal payroll.

A city's budget is its fiscal plan. It is the means of balancing its expenditures and income over a given period, usually a year. It should include three parts—first, a budget message, together with summary statements, second, detailed estimates of expenditures and income, and, third, complete drafts of the ordinances necessary to put the plan into effect. Part one, the budget message, is intended to present the scheme in outline, emphasizing important features. It should include a general summary, making clear how expenditures are to be kept within income, and contrasting the estimates for the coming year with the corresponding figures for the past year and the year in progress. In part two should be placed all the necessary supporting information. There should be a statement of the city's bonded indebtedness, showing the amount of bonds outstanding and the amount authorized but unissued. The condition of the sinking funds, the total borrowing capacity, and all other relevant information should be included. Then part three, the appropriation and revenue bills, should put all the details of the budget plan into proper legal form, ready for action by council. In short, council should have before it a clear picture of the city's finances. Most municipal budgets fall short of this ideal, however. They tell only part of the story. They omit all reference to certain bond issues, or fail to show the exact condition of the sinking funds. Special funds frequently are not included. As a result, council cannot give the budget plan the intelli-

gent consideration it needs. There is not even the certainty that a deficit will be avoided.

It is most important that proposed expenditures be kept safely within the limit of expected income, for otherwise the chief purpose of the budget plan is defeated. The budget is a device for making both ends meet, and not merely a compilation of meaningless figures. Of course, many cities violate this fundamental principle. The document which goes by the name of budget in Philadelphia has many times called for expenditures considerably in excess of anticipated income, and New York's "budget" is nothing more than an estimate of expenditures, without even a reference to revenues. But sound budget procedure permits of nothing less than a balanced statement. With such a statement at hand, council is in a position to keep the city's finances on a sound basis. If it decides to increase old appropriations or provide for new services, it knows that it must either make corresponding reductions somewhere else, or find some way of getting more money. If it sees fit to eliminate or curtail some city activities, without putting others in their place, it may safely reduce taxes. In other words, it is able to substitute careful planning for guesswork.

Preparation of the Budget

The first step in the preparation of the budget is an estimate by each department head of the amount necessary to carry on the work of his department during the coming twelve months. This estimate is made on standard forms, and is based on expenditures of previous years. It is submitted to the budget-making authority, which may be the mayor, as in Philadelphia, the city commission, as in Atlantic City, the manager, as in Cleveland, the council, through its finance committee, as in Chicago, or a board, as in New York. Students of public finance are virtually agreed that one man—the chief executive, whether manager or mayor—should be vested with entire responsibility for preparing the budget and carrying it into effect after it

has been approved by council. Otherwise there is the possibility of a great deal of friction and unnecessary delay. All burdensome details can well be handled, at least in the larger cities, by an appointed budget officer. Detroit has a director of the budget; so have Boston and New York. But final responsibility for the accuracy, completeness and wisdom of the budget plan should be centered in the chief executive.

When all the estimates of the department heads have been received and totalled, it is almost always found that they exceed the amount of anticipated revenue, as calculated by the finance department. So it becomes necessary to make reductions. Department heads, knowing this, are very apt to pad their estimates by five or ten per cent, in the hope that the final result will be to give them just about what they need. And budget officials, knowing full well the habits of the chiefs of departments, are prone to slice five or ten per cent off every request without asking many questions. They find it far easier, when the total estimated outlay is ten per cent too high, to reduce every estimate ten per cent than to leave some department requests unmolested and make drastic cuts in others, according to need. For any attempt to learn the real needs of every department, and the real causes of every request for more money, would involve a great deal of labor. It would necessitate extended discussions with all the principal administrative officers, and careful consideration of their problems. It would require more time, patience and ability than many a chief executive cares to devote to the matter. Yet it is obvious that department estimates have very little significance unless they are carefully and sympathetically studied by the mayor or manager, and reduced, when necessary, in an intelligent manner. No mathematical formula can be depended on to show how each department request should be treated. Many cities have learned this rather elementary fact, but there are still a great number of municipalities operating on so-called budget plans which make no adequate provision for item-by-item scrutiny of department estimates.

Council and the Budget

When the budget has been arranged to the satisfaction of the authority in charge, whether mayor, manager or board, it is offered for the consideration of council. The council's first step is usually to refer it to the finance committee.[3] At this point public hearings are held in most cities. The heads of the administrative departments are called before the committee, and asked to defend their requests. In manager cities the manager also appears, and explains the general plan of the budget. Interested persons are permitted to express their views. Then the budget is approved, with substantial modifications as a rule, and forwarded to council for final action. Usually the councilmen who are not members of the finance committee are quite willing to accept the recommendations of those who are. As a result, most important decisions are really made in committee, instead of on the floor of the council chamber. To a greater or less extent this is true of all the business which council enacts, but it is unfortunate that a matter as important as the fiscal policy of the city cannot receive the intelligent consideration of every councilman. In Cleveland an attempt has been made to awaken interest by bringing the manager and his department chiefs directly before the entire council, to explain their policies and answer whatever questions may be asked.

Council makes the budget effective by passing a series of ordinances. One of these is the annual tax levy, fixing the tax rate for the following year. Another may provide for increased special assessments, or other means of raising revenue. And on the expenditure side, of course, is the appropriation ordinance. This ordinance should contain all the appropriations to be made by council to every agency of the city government during the ensuing year. Frequently, however, it does not. Many councils habitually supplement their annual appropriation bills with additional appropriations made from time to time throughout the

[3] Unless, of course, the finance committee originally prepared the budget.

year. These supplementary appropriations are seldom matched by supplementary tax measures, so that the fiscal year is ended with a deficit. Except in case of unforeseen emergency there is no excuse for supplementary appropriations. The need for them could easily be prevented by an adequate original appropriation, a closer check on departmental expenditures, or both. Nor is it easy to justify the common practice of making continuing appropriations—authorizing some department or agency to spend a given amount for a definite purpose year after year. An appropriation of this kind requires no annual consideration by council; it goes on without interruption until council specifically authorizes a change. As a result it is fairly certain to continue for a considerable period, even though the need for it diminishes or disappears entirely.

The appropriation ordinance passed by council to carry out the budget plan may be either "lump sum" or "segregated"—that is, it may either give a lump sum to each department, permitting department heads to allocate the money to the bureaus and divisions under their control, according to the work to be done; or it may specify in great detail exactly how every dollar is to be spent, leaving the department heads virtually no discretion. The lump sum appropriation has one obvious advantage; it permits considerable flexibility, and facilitates the transfer of surpluses from one bureau to another. If the director of public works, for example, finds that unusually heavy traffic has made necessary more street repairing than at first estimated, while unexpectedly mild winter weather has reduced the expense of snow removal, he is at liberty to use snow removal money for street paving. He may exceed his estimate at one point if he keeps correspondingly below at another. Upon him is placed the responsibility for keeping within his total allotment. Presumably he is more familiar than council with the work of his department, and therefore is in a better position to make necessary adjustments. The first appropriation ordinances passed to make budget plans effective were mostly of the lump sum variety. City councils made no attempt to dictate all the details of

expenditure. But almost from the beginning unexpected disadvantages became apparent. Department heads did not plan their expenditures with necessary care. They spent so lavishly that often they exhausted their appropriations long before the end of the year. Sometimes they diverted the funds in their control to purely political purposes. So a strong reaction set in against the lump sum method. It was thought that the only way to prevent the chiefs of departments from spending their money foolishly or even illegally was to specify in exact detail in the appropriation ordinance exactly how every dollar was to be spent. While this method would undoubtedly destroy flexibility and at the same time force council to decide many matters which ought properly to be left to administrative discretion, it was widely heralded as the only means of making the budget effective. Nearly every large city in the United States adopted the segregated appropriation ordinance plan,[4] and still retains it. Many students of public finance, however, believe that some far more satisfactory scheme could be devised, combining the flexibility of the lump sum method and the certainty of the segregated plan. They suggest the so-called allotment system, which is nothing more than the lump sum method plus direct control by the chief executive. Every department head is required to present an activity program, showing what is to be done during each quarter of the fiscal year, and the probable cost of doing it. That program goes to the chief executive, and must be approved by him. Using it as a basis, he is in a position to allot to the various departments at the beginning of each quarter the amounts they will probably need during the ensuing three months. Each new quarter presents an opportunity for making any revisions which may be necessary in activity programs, and for examining

4 The term "segregated budget," used by many writers, is misleading. In the budget statement submitted to the council the expenditures are carefully segregated under appropriate headings. They must be, in order to give a clear picture of how it is proposed to spend the city's money. But it does not necessarily follow that the appropriation to each department must be correspondingly divided into a great number of separate items.

the state of department finances, to make certain that there will be no deficit at the end of the year. In other words, council makes lump sum appropriations, leaving a wide measure of discretion to the administrative officials; and the manager or mayor assumes responsibility for making certain that this discretion is not abused. Sometimes allotments are made to the departments on a monthly basis, instead of quarterly. The allotment plan has been adopted by a few cities, notably Washington and Berkeley, and by certain departments in other municipalities. But as yet it has received no widespread acceptance.

The extent of council's control over the budget is not everywhere the same.[5] As a rule it may make any changes it desires, increasing some items and reducing others, perhaps even eliminating some requests or appropriating for purposes not mentioned by the budget-making authority. But in New York City the board of aldermen is forbidden to increase any estimate or insert any new item. It may only reduce items or strike them out, and even these limited activities are subject to a mayoral veto which may only be overridden by a three-fourths majority. Boston goes even further. It also limits council's authority to the reduction or elimination of budget estimates, but gives the mayor an absolute veto. In mayor-council cities it is customary to give the mayor a qualified veto over proposed budget legislation, just as he has over all bills passed by council. Under the city manager plan, of course, council's action is usually final, and commission government provides but one group of men to formulate the budget, adopt it, and put it into effect.

In many cities, unfortunately, council is not the only authority empowered to spend city funds. The board of education, the department of utilities or the sewerage commission may be authorized by the charter to levy taxes in addition to the taxes fixed by council, and to spend the revenue thus obtained without any regard for central budgetary control. In New Orleans, for example, council controls less than half of the expenditures made each year by

[5] See p. 180.

the various agencies of the city government. Under such circumstances the budget cannot be a complete document. No one person is responsible for preparing the city's entire fiscal program, and no one group is responsible for approving it.

The budget plan ought not to extend beyond a single year. The proposals of the budget-making authority must be specific and presented in considerable detail. But they can be neither specific nor detailed if framed for a long period of years. Too many unforeseen events are certain to happen; too many conditions are sure to change. This does not mean, however, that the city should make no attempt to study its future needs and the means of financing them. Far from it. Every community should draw up a comprehensive financial plan covering five or ten years in advance. This work could well be intrusted to the budget bureau. The program thus prepared should then be adopted by council, with any necessary modifications. Of course, it would necessarily be less detailed than the budget, and less exact. It would be subject to changes from year to year. But it would serve as a guide for city officials and for the entire community. It would show, if only in a general way, the trend of the city's fiscal policy. Several municipalities have already adopted long-time financial programs,[6] though for the most part they deal only with permanent improvements.

The City Treasurer

Nearly every city has a treasurer, an official who should be appointed by the chief executive, though he is frequently elected. His principal duty is to act as custodian of the city's funds. As a rule he is also made responsible for the collection of taxes, special assessments and the like. In some municipalities, however, the work of collection is given to another official variously known as tax collector, city collector, or receiver of taxes. At any rate, all the

[6] For example, Bluefield, West Virginia, and Kalamazoo, Michigan. A ten-year financial program prepared for Detroit by a citizen committee has not yet been approved by the council.

receipts from different sources eventually find their way into the city treasury. There they remain until disbursed according to the provisions of the law. In every city several steps must be taken before a single dollar of city money can be paid out. First, the expenditure is authorized by some responsible administrative official, probably a department head. The director of public safety, for example, may ask for three thousand dollars for new uniforms, or perhaps merely make a routine request for money to meet the weekly payroll. Whatever the nature of the request, it goes to the controller, who examines it to find whether it is in every way legal and proper. He makes certain that council has appropriated a sufficient amount and that the appropriation has not already been spent, that all the formalities required by council and the state legislature have been observed, and that no provision of the law has been violated. If satisfied that everything is correct, he makes out the necessary voucher and sends it to the treasurer. In a large city it is customary to have payroll vouchers also signed by the secretary of the civil service commission. The voucher is the treasurer's authorization. As soon as he receives it he pays out the amount for which it calls, either by check or in cash. City charters usually stipulate that no money may be withdrawn from the treasury except on request of department heads or their deputies, approved by the controller. In some of the smaller communities, where the office of controller has not been created, council itself undertakes the task of passing upon all department requests.

Central Purchasing

Within the past two decades the purchasing officer has become an important figure in many American municipalities. The waste and inefficiency connected with small-scale purchasing of supplies by each separate department were so evident that one city after another adopted the central purchasing plan. Two hundred or more of the larger communities have already fallen into line. Some have made the purchasing agent head of a separate department; others

have fitted him into an existing department, or have merely designated the city clerk or controller as purchasing officer. The purchasing agent is in a position to save the city government a great deal of money. If he does his work thoroughly, he should be able to reduce materially the cost of supplies. Not only can he purchase in wholesale quantities, but he can standardize specifications, and make certain that the specifications are met in every instance. Of course, he must have facilities for adequate inspection, including a staff of competent workers to do the necessary counting, measuring and testing. Some few supplies of a highly technical nature may require examination by the department ordering them, but at least ninety-five per cent of all goods bought by the city can be properly tested, both as to quantity and quality, by the purchasing agent and his staff. Central purchasing usually carries with it the idea of central storing. This does not necessarily mean that goods delivered to the city must be kept at one central storehouse until needed by the departments ordering them. They may be stored at different places throughout the city, or even left in the hands of the merchants from whom they have been bought, to be delivered in small quantities from time to time. But one thing is essential to central storing: a central record of all supplies, showing exactly how much is on hand every day. Guesswork is thus eliminated.

Of course, central purchasing has not proved an unqualified success everywhere it has been tried. Sometimes it has caused unnecessary delays in making deliveries. Occasionally it has actually proved a losing proposition for the city, the purchasing officer ordering goods at higher prices than they could be procured by department heads. But instances of this sort do not invalidate the principle of central purchasing. They only emphasize the need for trained purchasing agents, familiar with their work and free from entangling political alliances. In some cities, purchasing officers have attempted to pass upon the wisdom of departmental requests. They have refused to order stationery of a certain grade, for example, on the ground that cheaper paper would meet requirements quite as well. The

natural result has been a conflict between purchasing officers and department heads. As a rule, such disputes are resolved in favor of the heads of departments. The purchasing officer is generally restricted to the task of procuring supplies, without the right to question whether the quantity of goods ordered is excessive, or the quality unsatisfactory.

Indebtedness

Every year the cities of the United States are going more deeply into debt. In 1927 their net indebtedness amounted to nearly five and one-half billion dollars, or a little more than one hundred and twenty-eight dollars for every man, woman and child within their borders. A decade and a half before it had been less than seventy-eight dollars per capita. This startling increase has occurred despite the introduction of sounder financial methods and a much greater emphasis on the need for paying all current expenses out of current revenue. It requires no extended argument to demonstrate that a city ought not to borrow for current needs—salaries, supplies and the like. Services are soon performed and supplies soon exhausted, but the bonds issued to pay for them must remain a burden on the taxpayers for years afterward. Yet only a few years ago many cities made a regular practice of meeting running expenses by issuing bonds. In this way taxes were kept low, and the professional politicians were able to point with pride to the tax rate while they shifted an ever-increasing burden to the next generation. Practices of this sort have now been generally prohibited. City charters commonly provide that bonds may be issued only for permanent improvements. But such legal restrictions can be evaded without great difficulty. Unless the charter gives an exact definition of permanent improvements, council is virtually free to determine what activities are permanent; and its decision may not agree with the facts. Take street repairing, for example. Is it a permanent or a temporary matter? Almost any person would call it temporary, for street repairs may last only a few months. Yet a number of cities still use the proceeds

of ten- or fifteen-year bonds for street repairing jobs which are supposed to be "permanent." Some cities have found still another way to circumvent the charter prohibition against borrowing for current expenses. When floating bond issues they occasionally fix the interest rate unnecessarily high—at five and one-half per cent, for example, though the bonds could be sold at par with an interest rate of five per cent. In this way they obtain a premium, perhaps receiving five and a quarter million dollars for five million dollars' worth of bonds. The additional quarter million is really part of the principal of the loan. To get it the city authorities have promised greater interest payments. Yet they use it at once for ordinary running expenses, without violating the letter of the law.

Granted that bonds should be issued only for permanent improvements, the question naturally arises: for how long should they run? And the answer commonly given is: for the expected life of the improvement. It is generally recognized today that fifty-year bonds should not be issued to pay for equipment which may be obsolete or worn out in less than a decade. A generation ago municipal bonds were regularly issued for long terms—thirty, forty or fifty years. It made no difference whether the money was to be used for widening streets or for paving them, for acquiring buildings or for putting them in repair. As a result, many cities are still paying for discarded motor trucks and dead horses. The more recent trend is toward shorter term bonds, some attempt usually being made to determine the probable life of each improvement for which bonds are issued. But it is not always an easy matter to state with any degree of accuracy how long city property and equipment will be fit for active service and suited to city needs. Unexpected defects may develop. New discoveries may at any time render present methods obsolete. The scrap value of discarded machinery may be many thousand dollars, or virtually nothing. Changes in the habits of the people or the direction of city growth may destroy most of the value of property purchased at a high figure. It is not surprising, therefore, that city officials sometimes miscalculate the

probable period of usefulness of improvements. Nor should it occasion astonishment that their errors are almost always in one direction. They overestimate the length of useful service. Thus they pave the way for longer term bonds, to be paid off years after they have left office. Because of these difficulties, many persons question the adequacy of the rule that a bond issue should be paid off within the life of the improvement financed. One careful student expresses his opinion that there is only one reliable principle: "A public debt should be paid off as rapidly as the government can do so in view of its other obligations, and taking into consideration the wealth of the community and general economic conditions."[7] Obviously this rule is very general. It affords ample opportunity for evasion, if city officials are desirous of evading it. But it suggests a sound municipal debt policy.

State Control

Virtually every state has attempted, through its constitution or laws, to check the growth of city indebtedness. The usual method is to place a limit on the city's borrowing capacity, the limit being commonly fixed as a percentage of the assessed value of property subject to municipal taxation. In some states the debt limit is as low as one and one-half per cent; in others it runs as high as twenty-five. "Five per cent of the assessed value of taxable property" is a common maximum; ten per cent is also widely used. But there are other ways of fixing a city's debt limit. Sometimes the charter mentions a specific sum which may not be exceeded; sometimes the debt must not be greater than the city's annual current revenue. It is customary, however, to make certain exceptions. Thus the charter may provide that bonds may be issued without regard to the legal debt limit for school purposes, since the public school system is generally separate from the rest of the city government, or to meet the needs of city-owned public utilities, because the utilities are supposed to be self-supporting. In many cities, additional bonds may be issued if approved by the voters.

[7] A. E. Buck, *Municipal Finance*, p. 477.

It is generally agreed that debt limits of some kind are necessary. Unless the state takes a hand in the matter, the cities are apt to embark on improvement programs far in excess of their actual needs. They may float bond issue after bond issue with reckless indifference, until they have impaired their own credit and that of neighboring communities, in addition to placing an almost unbearable burden upon future generations of taxpayers. These dangers are not imaginary, as evidenced by the borrowing policy of American cities prior to the establishment of debt limits in state constitutions and laws. The state has a paramount interest in preserving the public credit, and its right to regulate this phase of municipal activity is beyond question.

It is by no means clear, however, that the limit should be expressed in terms of assessed value of taxable property. The natural result of this arrangement is to foster inequalities and injustices. Great metropolitan centers, with heavy per capita expenses and a need for extensive public improvements, are quite certain to assess their property at or near full value. They must do so in order to keep within their debt limits. Sometimes, though seldom, they even assess property in excess of its full value. Smaller cities, on the other hand, seldom attempt to assess the property within their limits at more than a fraction of what it is actually worth.[8] Therefore, if the state also levies a property tax, using local assessments without any attempt to equalize them, the large municipalities are forced to pay into the state treasury much more than their share.

Reference has been made in an earlier chapter to the so-called Indiana plan of state supervision over municipal borrowing.[9] Instead of relying entirely on a percentage debt limit,[10] the legislature has created a state tax commission with power to review proposed municipal bond issues in excess of five thousand dollars. Any ten taxpayers may protest a proposed issue, and carry the matter to the state

[8] See p. 441.

[9] See p. 110.

[10] The constitution of Indiana prohibits the incurring of indebtedness by any municipal corporation in excess of two per cent of its assessed valuation.

commission, which has power to approve, reduce or reject, but not increase. Its decision is final. It may withhold its consent for any reason it deems adequate—because the purpose of the loan is illegal, because the project is unnecessary, or because other improvements are more urgent. This arrangement has not proved entirely satisfactory, but it has done far more good than rigid debt limits. Flexible administrative control of city borrowing makes possible a separate consideration of the needs of each city. State policies can be altered from week to week, if necessary, to meet changing conditions.

Bonds or Taxes?

There is no general agreement as to just what portion of a city's permanent improvements should be financed by bond issues, instead of taxation. Most cities pay for their permanent improvements entirely from the proceeds of loans, and consider themselves entitled to a great deal of credit because they do not also borrow to meet current expenses. Many students of municipal problems have long contended, however, that taxes should be increased sufficiently to cover all city expenditures, whatever their nature. Borrowing should cease, they declare, except possibly in cases of emergency. All improvements should be paid for by taxes of the current year. A number of arguments are advanced in favor of this "pay-as-you-go" plan, as it is often called. For one thing, it is said to be cheaper. A public improvement whose nominal cost is one hundred thousand dollars may actually cost the taxpayers two or three hundred thousand if financed by means of a bond issue, because to the original cost of construction must be added the interest charges over a period of perhaps forty or fifty years. Why should a city buy its improvements on the instalment plan, it is asked, when it could save so much by paying cash? Another alleged merit of the pay-as-you-go plan is that it discourages extravagance. Public opinion may be tolerant of an administration that sponsors unnecessary and wasteful improvements, even at an excessive cost, if payment is to be made at some time in the distant

future. But if every improvement means a substantial increase in the tax rate, the public will not remain indifferent. Every project will be scrutinized with care, and extravagant officials will soon be called to account. There is still another advantage; the cost of issuing bonds is saved, and the red tape avoided.

The pay-as-you-go plan has vital defects, however. Worst of all, it prevents a uniform tax rate. For public improvements are not needed in uniform amounts each year. One year may witness the completion of a sewage disposal plant designed to last for half a century and a water works which will probably serve the city even longer. The next twelve months may bring no need for extensive permanent outlays. In consequence the tax rate may show surprising variations, fluctuating from high to low like a Mid-Western thermometer. The business men of a community prefer to know in advance approximately what the burden of each year's taxation will be. They feel that business is sufficiently uncertain under most favorable conditions, without injecting an additional element of uncertainty. Taxes should be kept low if possible, but at least they should be kept from fluctuating widely.

There can be no doubt that the pay-as-you-go plan discourages extravagance, but it also retards needed improvements. The taxpayers are likely to frown upon any project which involves a large immediate outlay of public funds, regardless of its merit. They may insist upon the retention of practically worn-out equipment at an excessive cost for upkeep, if in that way a substantial increase in the tax rate can be avoided. They may negative important improvements, simply because they are unwilling to bear the total cost. They prefer, not unnaturally, to transfer a portion of the burden to the next generation. It is not surprising, therefore, that no large city finances all its permanent improvements out of taxes. New York City made the attempt in 1916, but the World War put a stop to the experiment, and it was never renewed.

The professional politicians, who believe that one should never pay today what can be put off until tomorrow, have

always favored the policy of paying for all permanent improvements out of the proceeds of bond issues. Recently they have been given aid and comfort by a group of students who contend that a city actually saves money by borrowing. The argument advanced is usually something like this: cities are able to borrow money at about four and one-half per cent. This is due in part to their excellent credit, and in part to the fact that their bonds are exempt from federal taxation, making particularly choice investments for persons with large incomes. But the use of the taxpayer's money is worth six per cent to him. Let us take two different methods of financing a public improvement whose probable life is twenty years. One way is to issue twenty year bonds. Should this plan be followed, the taxpayer will have to pay into the public treasury the total capital sum of the improvement plus four and one-half per cent interest for twenty years. During those twenty years, however, his money prudently invested will yield him an annual return of six per cent. Another way to finance this improvement is to raise the entire amount in a single year by means of taxes. If this alternative is adopted, and the taxpayer is asked to pay into the public treasury at once the total cost of the improvement, he will be obliged to forego the opportunity of securing six per cent interest on his money for twenty years. In other words, the individuals who comprise the community must forfeit six per cent, in order that the community of which they are members may save four and one-half per cent. Put in that way, the pay-as-you-go plan seems to be a very expensive proposition.[11]

But there are several flaws in this reasoning. For one thing, it assumes too high a rate of return on the investments of the typical citizen. The taxpayer with one or two hundred dollars to spare may have difficulty in finding the desirable combination of six per cent and safety. Then, too, there is no reason to think that the average man will

[11] See Gaylord Cummin's article, "The Pay-As-You-Go Plan," in the June, 1924, issue of the *National Municipal Review*. Subsequent issues contain further discussion of the problem.

prudently invest his money if given the opportunity. He is much more likely to spend it, without a thought of the inevitable day when payment must be made. Perhaps the most serious objection, however, to paying for permanent improvements solely by means of bond issues is that financial mismanagement is almost certain to result. Students of public finance who advocate borrowing—the pay-as-you-benefit plan, they call it—state emphatically that under no circumstances should the period for which bonds are issued exceed the probable life of the improvement.[12] But the politicians who usually control municipal affairs are of a different opinion. They are very likely to carry the pay-as-you-benefit idea a step further, and make it an excuse for evading all obligations. "Pay-as-long-a-time-after-you-benefit-as-possible" is their theory.

It is quite feasible to steer a middle course between the two extremes of paying for all permanent improvements at once out of taxes and paying for them entirely by means of bond issues. Every city knows that it will have to spend a considerable sum regularly on permanent undertakings. Certain projects recur annually. Every year, especially in a rapidly growing city, new streets must be paved, new schools built, new playgrounds acquired and equipped. It is a comparatively simple matter, therefore, to determine considerably in advance what the minimum outlay will be. Actual expenditures may be much greater. The tax rate can then be adjusted to cover all annually recurring improvements, while projects which occur but seldom are financed by means of bond issues. This scheme combines most of the merits of the other two, yet avoids their defects

[12] Critics of the pay-as-you-benefit plan sometimes ask: "If borrowing is so profitable, why limit the period for which bonds are issued? Every year payment is postponed means money saved to the taxpayer. Why not issue bonds for one hundred years, or with no date of maturity?" The friends of borrowing are ready with an answer: "The period of each bond issue must be limited to the probable life of the improvement," they reply, "because the total cost of public improvements is mounting so rapidly. If we were planning to finance but one project, it might be well to issue perpetual bonds. But instead we are engaging in new and more extensive projects each year, and if we did not pay for any of them, the rising tide of interest payments would soon swamp us."

in large measure. A number of American cities, including Chicago, Boston, Milwaukee, Spokane and Berkeley, already include the cost of at least some permanent improvements in their tax rates.

Bond Redemption

When a city issues bonds, it must make some provision for their redemption. Virtually everywhere the state law requires it to do so. In the past, the accepted way to redeem a bond issue was to create a sinking fund, paying into the fund each year out of taxes a sum which, together with earned interest, would be sufficient to pay the amount of the principal at the date of maturity. This method is still widely used, but it has proved defective in so many respects that it has been abandoned by a large number of cities. Philadelphia is the only great metropolitan center which still relies solely on sinking funds for the redemption of its bonds.

It should be a comparatively simple matter to calculate sinking fund requirements, yet errors are common. Sometimes the amounts appropriated each year by council are inadequate; sometimes, though less frequently, they are excessive. But for one reason or another it often happens that the reserve is above or below the necessary amount. Matters become still worse if the council fails to make its annual appropriation to the sinking funds. And because there is a sufficient reserve to meet any one bond issue outstanding, many persons assume that the funds are financially sound. The adoption of the sinking fund method of bond redemption makes possible a considerable amount of lax financing, some of it unintentional.

Perhaps the most serious objection to the sinking fund method is that it creates a large reserve which is subject to political manipulations. Money paid into the treasury for one purpose may be used for something entirely different. Of course, the law specifies the exact purposes for which sinking fund reserves are to be used. But the law may be changed or violated. Large sums may be borrowed

to meet current needs, with the intention of repaying them later. Still larger sums may be "borrowed" without the slightest intention of repaying them. A surplus in the city treasury has the same attraction for the professional politician that the flame has for the moth. But there is a significant difference: the flame consumes the moth, while the politician consumes the surplus.

Cities sometimes float bond issues of doubtful legality. To dispose of them in the open market would be difficult. Under such circumstances city officials are apt to hit upon the plan of selling the bonds to the sinking fund authorities. Practices of this sort have been fairly common in the past, and have raised a question as to the propriety of investing a city's sinking fund reserves in its own bonds. The reserves ought not to be used for the purchase of illegally issued bonds, of course. That is universally admitted. But what of bonds which could be sold equally well to the general public? It is sometimes said that investment by a city in its own bonds is a dangerous and vicious practice, because it makes the bonds their own security. Suppose a city should default. The bondholder would turn to the sinking funds, and there he would find more of the city's bonds, worthless or virtually so. On the other hand, there are undoubtedly times when a city can save considerable sums by selling its own bonds to the sinking funds. Should the market be poor, or should the financial interests unite to force a hard bargain, the city can become its own banker, at least to a certain extent.

The present trend is undoubtedly away from the sinking fund method of redeeming bond issues, and towards the serial bond plan. When serial bonds are issued, a certain number mature each year. Under the more common "straight serial" arrangement, the maturities are arranged in equal instalments. If a bond issue is for twenty years, for example, one-twentieth of the bonds fall due each year. At the end of the twenty-year period all the bonds of the issue have matured. The necessity for a large reserve is thus avoided, yet the taxpayers are required to pay into

the city treasury each year for debt redemption purposes *approximately* an equal amount. The amount is not exactly equal, of course, because interest payments are constantly becoming smaller. To continue our example of twenty-year bonds, the taxpayers are asked to retire one-twentieth of the issue the first year, and in addition to pay interest on all the bonds. The next year they again retire one-twentieth of the issue, but make interest payments on only nineteen-twentieths of the bonds. And the last year they need pay interest on but one-twentieth of the whole. A refinement of the straight serial is the serial annuity bond. Maturities are so arranged that as interest payments decrease the number of bonds annually coming due increases, the total payment for retirement and interest combined remaining the same each year. The burden is thus distributed evenly over the entire life of the bond issue. Some cities issue deferred serial bonds, the first maturities being dated several years—perhaps two or three—after the issue is floated. Bonds of the deferred serial type are occasionally used to evade redemption requirements. A forty-year deferred serial bond issue which begins to mature at the end of the fifteenth year, for example, enables municipal officials to forget all about debt redemption for a decade and a half.

It is sometimes said that sinking fund bonds are more desired by investors than bonds of the serial type. But this claim is seldom borne out. The market seems to be equally good for both kinds. Nor is there any reason to think that either method of financing bond issues is cheaper for the taxpayer, though a great deal has been written to prove that cities were losing money by adopting one plan or the other. The real reason why serial bonds have been adopted by so many American municipalities is that they eliminate the necessity for a large fund, with its problems of administration and its constant incentive to dishonesty.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chaps. XX and XXII.

Brown, Fraser, *Municipal Bonds,* New York, 1922.
Buck, A. E., *Municipal Budgets and Budget Making,* New York, 1925.
—— *Municipal Finance,* New York, 1926.
—— *Public Budgeting,* New York, 1929.
Forbes, Russell, *Governmental Purchasing,* New York, 1929.
Kilpatrick, Wylie, *State Administrative Review of Local Budget Making,* Municipal Administration Service, New York, 1927.
Lancaster, L. W., *State Supervision of Municipal Indebtedness,* Philadelphia, 1923.
Lutz, Harley L., *Public Finance,* New York, 1924.
Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 531-55, 578-627.
Morey, Lloyd, *Introduction to Governmental Accounting,* New York, 1927.
—— *Manual of Municipal Accounting,* New York, 1927.
Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XLIV.
Oakey, Francis, *Outline of an Accounting System for a Small City,* Municipal Index, 1928, pp. 121-5.
—— *Principles of Government Accounting and Reporting,* New York, 1921.
Raymond, W. L., *State and Municipal Bonds,* Boston, 1923, Chap. III.
Rightor, C. E., *The Preparation of a Long-Term Financial Program,* National Administration Service, New York, 1927.
Taylor, R. E., *Municipal Budget Making,* Chicago, 1925.
Thomas, A. G., *Principles of Government Purchasing,* New York, 1919.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. IV and VI-IX.

Brownlow, L., "Model City Purchasing System," *American City,* August, 1927.
Cummin, G. C., "The Pay-as-You-Go Plan," *National Municipal Review,* June, 1924.
Forbes, Russell, "Municipal Purchasing Methods and the Lowest Responsible Bidder," *American City,* August, 1927.
Hougue, E. L., "Municipal Budget Making," *American Municipalities,* December, 1927.
Kilpatrick, Wylie, "Budget Reporting," *American City,* July, 1928.
—— "State Supervision of Municipal Finance in New Jersey," *National Municipal Review,* August, 1925.
National Municipal League Committee, "A Model Bond Law," *National Municipal Review,* supplement, February, 1927.

National Municipal League Committee, "A Model Municipal Budget Law," *National Municipal Review,* supplement, July, 1928.

Rightor, C. E., "The Bonded Debt of 213 Cities, as of January 1, 1928," *National Municipal Review,* June, 1928. Articles by Mr. Rightor analyzing municipal indebtedness are an annual feature of the *Review.*

Scovill, H. T., "Municipal Budgets," *Illinois Municipal Review,* March, 1928.

Upson, L. D. and Rightor, C. E., "Standards of Financial Administration," *National Municipal Review,* supplement, February, 1928.

Zuckerman, T. D., "The Pay-as-You-Go Plan Is Cheaper," *National Municipal Review,* August, 1924.

A vast amount of information concerning the financial affairs of cities is found in *Financial Statistics of Cities,* published annually by the U. S. Census Bureau.

Volume CXIII of the *Annals of the American Academy of Political and Social Science,* May, 1924, deals with "Competency and Economy in Public Expenditures."

CHAPTER XIX

REVENUES

THE revenues of a city come from many sources. There are, for example, taxes, fines, fees, interest and premiums, special assessments, grants from the state or county, donations from private persons. Taxes are by far the most important. They account for approximately seventy per cent of all municipal income. There is on record the case of one town—Pawhuska, Oklahoma—which has been operating for years without a general tax levy, the cost of running the city government being borne by the municipally owned and operated utilities.[1] But no large city has been able to finance itself in like manner. Virtually everywhere taxation is the chief reliance.

A tax is commonly defined as a compulsory contribution for the support of government. It has no necessary relation to benefit received. A wealthy bachelor, for example, may be required to pay more for the support of public schools than a poor man with a large family. Many a city dweller helps to pay, by means of taxes, for municipal band concerts he never hears and municipal tennis courts he never uses. A tax can readily be distinguished, therefore, from a fee, which is a direct payment for some special service—for registering title to property, for example. There are sound reasons why taxes should be levied without reference to benefit. For one thing, it is virtually impossible in most cases to measure the benefit received. How much is police protection worth to the average citizen? Without it his property might be taken from him at any time. What is the value of public health work? Is it worth more to the rich man than to the poor? If so, how much

[1] Editorial comment, *National Municipal Review*, August, 1928, p. 447.

more? What is the real worth of a good system of street lighting? Does it have indirect advantages for the citizen who spends his evenings at home? To ask such questions is to suggest the impossibility of answering them. Rarely, if ever, can a municipal service be singled out, and its exact value to each member of the community determined with any degree of accuracy. Moreover, it is generally agreed that a sound tax system should be based on the principle of ability to pay instead of benefit received, even if it were possible to measure benefit. For when every person contributes to the support of government in proportion to his ability to do so, there is genuine equality of treatment. Every member of the community sacrifices a like amount. Benefit cannot possibly be accepted as a measure of taxation, for some of the persons most in need of the city's services are least able to pay for them. The inmates of the poorhouse cannot be expected to make substantial contributions to its maintenance, unless by their labor, and those who need medical treatment at the municipal hospital must be given it, regardless of the weight of their purses.

There are times, of course, when strict logic must give way before the demands of expediency. A tax based solely on the principle of ability to pay may fail to give complete satisfaction because of administrative difficulties. Take the income tax as an example. A man's income is generally recognized as a good test of his ability to contribute to the support of the government. But it is no easy task to learn the exact amount of each person's income. An unscrupulous citizen may resort to falsehood with little fear of detection. And if government agents make thorough investigations, their "snooping" is bitterly resented. On the other hand, a retail tax on the sale of certain commodities may have little relation to the principle of ability to pay. It may serve to show only that some products are in widespread demand. Yet it presents very few administrative difficulties. It cannot readily be evaded, and is paid by everyone with a minimum of protest. The sales tax and others of its kind have certain advantages, therefore, over

such a theoretically equitable tax as that on incomes. For that reason they may also have their place in a sound system of taxation. Ease of administration is an advantage which should always be kept in mind.

The General Property Tax

The average city obtains revenue from a great variety of taxes. There are property taxes, poll taxes, income and inheritance taxes, business taxes of different kinds. Some are levied and collected by the state, and distributed to the local communities in whole or in part. Others are entirely in the hands of local officials. By far the most important is the general property tax. It accounts for more than nine-tenths of the money which the cities of the United States raise each year by means of taxation. Virtually everywhere it is the basis of the municipal tax system.

Strictly speaking, the general property tax is a levy upon all real and personal property—upon land and houses, horses and cattle, machinery and tools, household and personal goods, and such intangible possessions as bank accounts, stocks, bonds and mortgages. Virtually everywhere, however, certain kinds of property are exempted. The list of exemptions commonly includes household furniture, wearing apparel, mechanics' tools. Certain other classes of property are often freed from municipal taxation because they are separately taxed by the state—for example, stocks in trade and equipment of business corporations. It is customary, also, to exempt the real property of religious, charitable and educational institutions, and that owned by city, county, state and nation.

Before property can be taxed, it must be assessed. Lists must be prepared of all taxable property within the city, and the value of each separate item determined. This assessment work may be done by the city, or it may be entrusted to county or state officials. In some states there is a duplication of effort, the city preparing its own assessment roll, and the county making an independent valuation on which its taxes are based. The methods of assessing property now employed in most cities are thoroughly bad.

They occasion glaring injustice. This is especially noticeable in the assessment of personal property. Take, for example, household goods. How can an assessor be expected to visit every home, and determine with even approximate accuracy the value of the piano, the radio, the bedroom furniture and the kitchen table? Or consider jewelry, which is far more valuable and far easier to hide. Is there any feasible way of discovering and listing it? Because of practical difficulties of this sort, municipal officials often abandon the attempt to make individual assessments of household goods and personal effects. Instead, they simply divide the city into zones, trying in a rough way to include within each district families of approximately equal wealth. Every head of a family within a given zone is then assessed exactly the same amount for personal property, the amount of the assessment increasing from the poorest zone to the richest. This method is certainly a very crude approximation; usually it is in violation of the law. But no better scheme of reaching this type of property has yet been suggested. When the attempt is made to assess intangible personal property, such as stocks, bonds and mortgages, the difficulties are multiplied many fold. For these evidences of wealth are readily concealed, and cannot be discovered by the most vigilant assessor. During the last half century the value of real estate in the great cities of the United States has mounted by leaps and bounds, while the value of personal property—if we accept the assessment figures—has increased scarcely at all. In some great metropolitan centers it has actually declined. But it is generally recognized that the assessment figures bear no relation to the facts. The value of personalty is probably increasing far more rapidly than that of land and buildings. In our modern civilization the great wealth of the large cities is represented by intangibles. Most of those intangibles are never found by the assessors; they are never placed on the tax lists, and never made to bear their share of the cost of government. But their existence is beyond all question. It is an admitted fact that the more personal property increases, the less it pays. This condi-

tion of affairs is inevitable. It cannot be changed except by modifying or repealing the general property tax.

In some cities the state law requires every taxpayer to declare under oath the value of his personal property. Such provisions have accomplished no good, however. In fact, they have done a great deal of harm, for they have encouraged disregard for the law. Virtually everyone assumes that valuable personalty will not be declared, and looks with astonishment upon the occasional man or woman who makes a truthful statement to the tax collector. One commission reports that "it is now literally true that the only ones who pay honest taxes on personal property are the estates of decedents, widows and orphans, idiots and lunatics." Small wonder that the general property tax, as applied to personalty, is described as a school of perjury, "debauching the moral sense and . . . imposing unjust burdens on the man who is scrupulously honest."[2]

Different methods of correcting this unfortunate situation have been tried. Some years ago "tax-inquisitor" or "tax-ferret" laws were passed in a number of states. The typical Ohio statute authorized any person to report the property of his neighbors, if he had reason to believe that it had not been declared. Property thus discovered was heavily penalized, and a portion of the penalty went to the informer. The chief result of this plan was to cause a widespread feeling of resentment. Evasion became even more systematic and widespread.

Some communities tax personal property at a lower rate than real estate, in the hope that a light burden will prove easier of collection than a heavy one. They have also failed, however, to unearth any considerable percentage of the intangible property within their borders. The plain truth of the matter is that the general property tax has never been successfully applied to intangibles, and never will be. A few states have faced this fact squarely by entirely exempting all the more important forms of personalty from the operation of the general property tax, and

[2] These statements from the reports of state tax commissions are quoted in E. R. A. Seligman's *Essays in Taxation*, 9th ed., pp. 27-8.

trying to force them in some other way to meet their share of the tax burden. But when the state constitution provides, as is often the case, that *all* property must be taxed at a uniform rate, city officials have no choice but to continue their fruitless quest of personalty.

Even as applied to real estate, the administration of the general property tax is very unsatisfactory in most cities. Land and buildings can be found readily enough; the chief problem is to ascertain their "fair" or "reasonable" value, as required by law. The work of assessment is usually done by men who lack special qualifications—whose chief merit, in fact, is that they control a good many votes. As a rule they are locally chosen; often they are elected. They are not sufficiently prominent to attract the attention of the voters, and the obvious effect of providing for their popular election is to put control directly in the hands of the political machine. There are cases on record of blind men elected by substantial majorities, and in one instance the people of a large city voted for an imaginary person whose name had somehow been placed on the ballot.

Assessors are always under pressure to fix the value of property at something less than it is actually worth. The pressure may come from the ward and precinct leaders, or directly from the property owners. Professor Seligman reports the case of an assessor who declared that it would be necessary to swear a local merchant. "If you swear me," declared the merchant, "I'll vote against you next time." Elected assessors are pledged to find the true value of property, but as a matter of practical necessity they must ignore their oaths. If they perform their duty conscientiously they are quite certain to fail of re-election. Even when their intentions are of the best, moreover, most assessors are totally at a loss how to proceed. Their estimates of the fair value of property are usually guesses, and not very good guesses at that. Probably without intending to do so, they discriminate against the poorer people who are less able to pay. For they are more familiar with the value of small homes. When two assessors, working in pairs as they often do, try to determine how much a six-

room house is worth, they find the problem relatively simple. Their own homes are of the six-room variety. But when their task is to assess an eighty-room mansion which cost two or three million dollars to build, they have no reliable guides. They are more likely to fix the value at one million dollars than at two or three millions, for they have difficulty in realizing that any house could be worth so much. Of course, they are at liberty to consult the record of property sales, and in this way they can undoubtedly gain some information. But many times the true consideration is not stated, unless the law requires it to be given. In any event there may be a dozen complicating factors. One property may be sold at an unreasonably low figure to close out an estate; another may bring an astonishingly large sum because it is needed to round out a new development.

State laws commonly provide that all property must be assessed at its fair cash value. Sometimes they even go so far as to provide severe penalties—fines and imprisonment—upon assessors who value property at anything less than its full worth. But the laws are freely violated, and assessors remain at liberty. There are relatively few cities in the United States, large or small, where full value and assessment value are the same. Within a single state there are great variations. One city may direct its assessors to value property at one-half or one-third—or even one-tenth—of what it is actually worth; another city may decide upon eighty or ninety per cent. The law may say one hundred per cent, but practice usually directs something very different.

This persistent habit of undervaluing property for purposes of taxation would not be so serious if all property were undervalued to the same extent. As a matter of fact, however, great inequalities are found within a single community. Every careful survey reveals startling discriminations, some properties being assessed at perhaps seventy-five or eighty per cent, and others at twenty. In other words, many property owners are paying their neighbors' taxes in addition to their own. Moreover, results are especially unsatisfactory when the state legislature uses local assess-

ments as the basis for a state tax, without any recognition of the differences in procedure from city to city. For the effect of such a policy is to penalize the community which assesses property at or near full value. Its taxpayers contribute just about twice as much to the state treasury as if fifty per cent were the accepted assessment basis. This obvious fact is soon learned, and after a time cities compete with one another in underassessing their real estate. To offset such practices, state boards of review or equalization have been set up almost everywhere. These boards are distinct from the local bodies which hear the complaints of property owners. As a rule they have no jurisdiction over individual appeals. Their chief function is to adjust local assessments so that there will be practical uniformity for purposes of state taxation.

It is quite obvious that the assessment of property at less than full value does not in any way reduce the burden of the taxpayers. Two factors determine what every property owner will pay: the amount of his assessment and the tax rate. If assessments are lowered, the tax rate must of necessity be increased. From the standpoint of total revenue, it makes no difference to the city whether property is assessed one hundred per cent, with a rate of two dollars per one hundred dollars of assessed value, or assessed only fifty per cent, with a tax rate of four dollars. Nor should it make any practical difference to the taxpaying public.

Why, then, are so many objections raised to assessment at full value? Why is it almost impossible to secure one hundred per cent assessments, despite explicit statutes and drastic penalties? The chief reason, probably, is that the average taxpayer believes he is somehow escaping a portion of his burden when his home or his store is assessed at less than it is actually worth. He knows that his neighbors' assessments are also below par, but he manages to forget that the only result is to increase the rate of taxation. He lives in a fool's paradise, congratulating himself that others are bearing the burden which in reality still rests on his own shoulders. Then, too, it may be that many persons prefer forty or fifty per cent assessments, or something

even lower, because they know that under such circumstances all properties will not be treated alike. Some are certain to escape their full share; others are equally sure to bear more than their burden. And every man doubtless hopes that his property will be favored.

As commonly administered, the general property tax is thoroughly unsatisfactory. It opens the way for unjust discriminations, bears more heavily upon the poor than the rich, enables one class of property—personalty—to escape altogether, and places the machinery of assessment in the hands of novices whose only training is in the art of politics. It has been called a travesty, a farce and a sham, a reproach to the state, and a disgrace to modern civilization. It is sometimes said to be the worst tax in the world, and the burden of proof rests on the man who would assert the contrary.

Mechanical Valuation

There is no good reason why many of the present inequalities of the general property tax cannot be eliminated, and many of the defects corrected. A number of the larger cities, including New York, Baltimore, Cleveland, Detroit and Newark, have developed systems of "mechanical" or "scientific" assessment, applying only to real estate. Land and buildings are valued separately. The first step in mechanical assessment is to make tax maps showing the exact location and dimensions of every separately owned piece of real estate; the second is to prepare land value maps, showing the front foot value of all land within the city's borders. The land value maps show streets and alleys, but not private property lines. After they have been prepared, the assessment of land becomes a relatively simple matter. Suppose it is desired to find the value of a lot in First Avenue, between A and B Streets. The map shows that land fronting on this part of First Avenue is worth four hundred dollars a front foot, assuming a depth of, say, one hundred feet. If the lot we have chosen is just one hundred feet deep, with a frontage of forty feet, we need only multiply forty (representing frontage) by four hundred (rep-

resenting front foot value) to learn that it is worth exactly sixteen thousand dollars. But the problem is seldom so simple. One parcel of land may have a depth of one hundred and twenty-five feet, instead of the assumed one hundred. How can its value be determined? It is one-fourth deeper than normal, and at first thought one might be tempted to solve the problem by adding twenty-five per cent to the normal assessment. But a moment's reflection will show that such a procedure would be far from satisfactory. For the rear portion of a lot is worth far less than the portions nearer the street. The last twenty-five feet may not be one-tenth as valuable as the first twenty-five. How, then, shall lots be treated if they are deeper or shallower than the average? There are a half-dozen rules, used by as many cities. It is generally agreed, however, that the quarter of the lot nearest the street is by far the most valuable, and that the first half is worth at least twice as much as the remainder. But many lots are not rectangles. Their depth may not be uniform. Their boundaries may be irregular. Under such circumstances the customary procedure is to split them up as nearly as possible into rectangular parcels, valuing the rectangular portions in the usual manner and applying special rules to the remnants. Then there is the problem of the corner lot. Should it be valued at a higher rate than other parcels of land? If so, how much weight should be given to its superior location? Every system of mechanical valuation treats corner lots as especially desirable, but there is no general agreement as to the proper method of assessing them. Under one plan, a corner lot is treated as two lots, the front foot value on each street being found, and the two added together. This might seem to place an unreasonably heavy burden on corner lots, but in actual practice no serious injustice is done.

After the land has been assessed, it is necessary to determine the value of buildings. Cost of construction is a fairly safe guide, but of course it is not always possible to learn how much a building actually cost. So resort must be had to other sources of information—the cost of similar

structures, for example. Tables have been formulated for different types of buildings, allowance being made for variations in height, width, depth, floor space, cubic contents, quality and kind of materials used. Some allowance should also be made for depreciation. Several authorities have prepared tables showing the probable depreciation of different types of structures.

Assessment procedure of this kind may well be called "mechanical" or "scientific" to distinguish it from the haphazard performance which is typical of American cities. But the use of such adjectives should not conceal the fact that in the last analysis individual judgment must play the deciding part. The correct way to assess a lot may be to multiply its frontage by the front foot value, but first someone must determine front foot value. Depth tables, corner lot formulas and the like are worthwhile aids to the assessor, but they can be applied only after fundamental units of value have been found. It is important, therefore, to have trained assessors—men who understand the technique of property valuation. They should be appointed, of course, for their work is purely administrative. They do not have even a remote share in the formulation of policies. Moreover, they should be chosen under civil service regulations, and after appointment they should be given special training. There is no good reason why expert assessors carefully applying scientific rules cannot appraise real estate accurately.

Even if most of the administrative defects are corrected, however, the general property tax will always remain a bad tax. It is fundamentally unsound. For it makes ownership of property—all property in theory, but real property in practice—the test of a man's ability to contribute to the support of government. And most students of public finance are agreed that the proper test of ability to pay is not property, but income. A century and a half ago, when virtually all wealth was in tangible form—houses and barns, crops and cattle—no grave injustice was caused by taxing all men in proportion to their visible wealth. But under modern conditions the old scheme is intolerable. The

size of a man's home and the value of his store or factory may have very little relation to his ability to share the burdens of government.

State Control of Tax Limits

Reference has already been made to municipal debt limits.[3] Tax limits are also commonly imposed by the state. They may take the form of a prohibition against exceeding last year's tax rate by more than a small percentage, or they may fix the maximum rate at so many dollars per capita. More often the tax limit, like the debt limit, is expressed as a percentage of the assessed value of property subject to municipal taxation. The state constitution, state law or city charter usually provides that the tax rate may not exceed two or three per cent. In Ohio the limit is one per cent. As a result, Ohio cities have long found difficulty in securing enough money to meet their current expenses. A few years ago the city government of Toledo was virtually forced to suspend operations. Members of the police force and instructors in the municipal university served for months without pay. The trouble with all tax limits of this kind is that they are formulated without reference to municipal needs. They apply to all cities alike; therefore they pinch some and hang baggily upon others. One or two per cent of the assessed value of property may be adequate for one community; it may place a neighboring community in a desperate plight. From this standpoint the Indiana plan is more satisfactory. The state commission which passes upon proposed bond issues is also empowered to review local tax rates, reducing them when it thinks best.[4]

Even the most flexible type of state control over municipal taxation, however, is open to the serious objection that it violates the principle of municipal home rule. The people of every city should have the right to determine for themselves, without state interference, what their tax rate is to be. It may be said, of course, that the matter is

[3] See pp. 424-6.

[4] In Iowa, Oregon and New Mexico, also, state authorities have the right to pass upon local budgets.

actually settled by the politicians instead of the people, but that statement is no less true when the state is in control. Moreover, the voters have a habit of showing surprising independence when their pocketbooks are directly and obviously affected. They can generally be relied on to express their displeasure in no uncertain terms if the tax rate goes sky-rocketing. State debt limits can be defended successfully on the ground that the state has a vital interest in preserving the public credit. Its own financial standing may be affected when communities within its borders issue bonds in excessive quantities, and then fail to meet payments of interest or principal. But the same reasoning cannot be applied to state supervision and control of local tax rates.

Other Taxes

Poll or "head" taxes are used by nearly half the cities of the United States.[5] As a rule they are low—from fifty cents to two or three dollars per person. Payment is often made a prerequisite of voting. The effect of this requirement in Northern cities is to disfranchise the poor voter of independent bent. It never bars anyone who will cast his ballot as directed, for the organization considers it good business to buy votes with poll tax receipts. In the South the poll tax requirement is used chiefly to keep negroes from voting. This it does very effectively.[6] Poll taxes are expensive to administer, and produce very little revenue. Moreover, they bear no relation to each person's ability to contribute to the support of government. They might well be omitted altogether from the scheme of municipal taxation.

Most cities levy taxes on various businesses and occupations. Sometimes these taxes are levied primarily for regulatory purposes, and the sum collected is just sufficient to cover costs of inspection. Every dealer in inflammables and explosives, for example, may be required to procure

[5] 113 of the 250 cities with populations of 30,000 or over imposed poll taxes in 1926, according to Census Bureau figures. See *Financial Statistics of Cities, 1926*, p. 45.

[6] See p. 305.

a license, in order to prevent these substances from falling into improper hands. The cost of inspecting the place of storage may then determine the amount of the license. Sometimes business taxes are levied entirely for revenue. In that case it is customary to tax virtually every business and profession, from abstracting to zinc plate production. The amount of the levy varies from business to business, but as a rule all persons having the same occupation are taxed alike. The lawyers, for example, are taxed at one rate, and the barbers at another. A considerable number of cities, however, attempt in a rough way to apply the principle of ability to pay. They proportion the amount of each man's business tax to the number of his employees, the value of his stock, the quantity of his production or the length of time he has been in business.[7] In a great many instances, of course, it is impossible to determine whether a tax has been imposed for regulation or for revenue. Both elements seem to enter. Some few cities derive a small portion of their revenues from taxes on such miscellaneous subjects as incomes, inheritances, banks, public utilities and private corporations. These taxes are usually levied by the state legislature and collected by state administrative officials, the proceeds then being apportioned, in whole or in part, among the cities.

Special Assessments

Nearly all cities make use of special assessments to a greater or less extent. These are charges levied against the owners of property for services rendered by the city, on the assumption that some special benefit has been conferred. When a street is newly paved, for example, there is reason to believe that the owners of abutting property have been directly benefited. Why not, therefore, require them to pay all, or at least a portion, of the paving cost—provided, of course, that cost does not exceed benefit? Such a method of financing municipal activities is alluring. It

[7] In Little Rock, for example, lawyers who have practiced more than five years are taxed at a higher rate than lawyers who have practiced five years or less.

makes possible an extension of services without any increase in the tax rate. Therefore it has been widely adopted. Special assessments are levied for a great variety of purposes, chiefly sewers, paving, curbing and sidewalks, but also street widening and grading, development of parks and playgrounds, and installation of ornamental lighting and high pressure fire fighting systems. Some cities even make use of the special assessment principle for current services, such as street cleaning and lighting, snow removal, park maintenance; but they are in the minority. Special assessments are commonly associated with permanent improvements.

There is no valid objection to the general principle that those who receive special benefits from the city ought to pay for them. But the application of this principle is extremely difficult. When a park or civic center is developed, for example, what is the area benefited by the improvement? Do abutting properties receive a greater advantage than those a block away? If so, how much more should be charged against them? When a street is newly paved, should the owners of abutting property bear the entire burden? Do other nearby property owners also secure an advantage? Should part of the cost be borne by the taxpayers of the entire city—on the theory, perhaps, that they at times use the street? City officials are not generally agreed as to the correct answers to these questions. Practice varies widely. In some cities benefited property is never charged more than fifty per cent of the cost of an improvement; in others it is required to pay the full amount. Sewer and street improvements are assumed to benefit only abutting property, and their cost is seldom spread over a wider area.[8] Parks and playgrounds, on the other hand, are commonly supposed to confer benefits over extensive districts. But there is seldom a scientific attempt to determine accurately the area of benefit. Instead, council rather arbitrarily marks out a surrounding district, and

[8] In New York City, however, the cost of opening new streets through built-up sections is sometimes charged against property lying on either side for a distance of eight or ten blocks.

all property owners within that district must contribute. In time the present crude methods of measuring benefit will doubtless give way to more satisfactory procedure. Scientific rules must be developed, just as they have been worked out in connection with mechanical valuation of real estate.

As a rule, property owners are permitted to pay their special assessments in instalments, the number of years over which payment may be extended being specified in many city charters, and varying according to the nature of the improvement. Interest is charged on deferred payments, of course. This plan of buying public improvements on the instalment plan is popular with the property owners. It raises a serious problem, however, because contractors must be paid as soon as the work is completed. Usually bonds are issued. In a few cities the contractors are forced to take these bonds in payment, but this arrangement is especially unfortunate. Responsible contractors do not care to accept paper obligations in lieu of cash, and if the law requires them to do so they simply refuse to bid on municipal work. The field is left to the irresponsible bidders who are willing to accept the bonds and try to dispose of them immediately at a substantial discount. So most cities sell the bonds in the open market, and pay the contractors in cash. In many cases, special assessment bonds are merely a lien against the benefited property. The city does not guarantee the payment of interest or principal, though it acts as agent for the bondholders in the matter of collections. Should property owners default, no action can be brought against the city. And defaults are rather frequent. Naturally, bonds of this type cannot command a ready market. They must carry a rate considerably in excess of the rate for ordinary municipal obligations in order to attract investors. If they are defaulted, the credit of the city is weakened. In a number of states, therefore, the law provides that special assessment bonds must be supported by the full faith and credit of the city, in addition to liens upon benefited property.

The extent to which special assessments are used varies

widely from city to city. In Los Angeles, for example, they bring in to the city treasury nearly one-third as much as the general property tax, while in Philadelphia their importance is negligible—in fact, they contribute only about one-seventy-fifth as much as the levy on property. It is probable that special assessments will be used more extensively in the future by all American cities, as procedure is perfected and the pressure for increased revenues continues.

Fines represent but a very small percentage of total municipal revenue. This is necessarily so, for a fine is imposed—or ought to be—as a deterrent to wrong conduct, and not as a means of securing income. Nor do fees bring in large sums, though in most cities they could be made to produce considerably more revenue. When a city keeps a record of real estate transfers, for example, the owners of the real estate receive special benefits. They should be made to pay at least the cost of the service. As a rule they are charged merely nominal sums, a considerable portion of the cost being borne by all the taxpayers. Some years ago it was customary to permit certain officials—the sheriff and the registrar of wills, for example, to retain the fees they collected, in lieu of, or in addition to, regular salaries. As a result, some offices proved exceedingly lucrative, and well worth fighting for. Many a city post with an annual salary of five thousand dollars carried with it the possibility of earning in fees ten or fifteen times that amount. In a few cities the practice of permitting officials to retain fees, instead of turning them into the public treasury, has not yet been entirely abolished, but there is no reasonable doubt that in a few years it will disappear altogether. Each year five or six per cent of city income is in the form of grants from state or county, most of the money coming from the state. Nearly nine-tenths of it is for educational purposes. There are also some private donations—from individuals and corporations. City-owned utilities provide a large gross income, but in most cases this money must be used to meet operating expenses and interest charges, and the cost of service extensions and debt retirement. It is often said,

in fact, that municipally owned and operated utilities usually operate at a loss, though the loss may be concealed by questionable methods of accounting. To determine the truth of this charge is not an easy task, and need not concern us at this point.[9] One thing is fairly certain, however; the net income of municipal utilities is not large enough to be classed as a principal source of city revenue. There are a number of other sources which must be added to make the list complete—interest, rents, royalties, proceeds from the sale of city property and obsolete or surplus city equipment, payments for permits and franchises. Some cities secure considerable income from the special privileges granted to individuals and corporations in the form of permits and franchises, while others virtually give away valuable concessions. If private persons are allowed to maintain vaults under the city's sidewalks or use city property for storing building materials, they should be made to pay for the privilege. Vastly more important, if utility corporations are permitted to place their pipes, wires or tracks under, over or upon the public streets, they should be charged accordingly.

The Need for More Revenue

Every city government faces the problem of securing more revenue. Usually the problem is pressing. The cost of government is rising steadily as cities grow and city services multiply, and there must be greater income to match increased expenditures. In nearly all the large cities, committees have been appointed and investigations have been made for the purpose of unearthing new sources of revenue, but without much success. The story is nearly always the same. The mayor—or perhaps the council—creates a commission to make the necessary survey of existing sources, and submit recommendations. Sometimes the local bureau of municipal research is asked to undertake the task. Several months of intensive investigation follow, and then the commission usually suggests that the city obtain more revenue *by developing the old sources more*

[9] See, however, the discussion in Chap. XXX.

fully. For it is not easy to find a satisfactory means of securing additional income that has been entirely overlooked.

The recommendations of these investigating commissions, bureaus and officials possess considerable value, however. Many are adapted to local conditions, but some are found in virtually every report, and can be applied almost universally. It is not difficult, therefore, to suggest methods of making municipal revenue systems more efficient and more productive. First, real property should always be assessed at full value. With trained assessors and a good system of mechanical valuation this can readily be done. It may well be said, of course, that an assessment of fifty or seventy-five per cent of actual value is practically as satisfactory, provided every person is treated alike and the revenue thus obtained is used entirely for local purposes. But when property is assessed at less than full value, every person is *not* treated alike. Some are unduly favored; others are unreasonably burdened. That has been the experience of virtually every American city.

It is frequently suggested that some of the real estate at present exempted from the property tax be made to bear its share of the tax burden. As previously pointed out, religious, educational and charitable institutions are not usually taxed by the city upon their property holdings. Whether they should be is a moot question. They are doing a work generally conceded to be desirable, and it may well be argued that the city should continue its indirect contributions in the form of tax exemptions. But the exemptions are costly—more so than is generally realized. They keep many dollars out of the municipal treasury.

Most cities should make a considerably greater use of special assessments. On that point there is general agreement. To a large extent, at least, local improvements should be paid for locally, in proportion to benefit received. But it is highly important that benefit be measured with reasonable accuracy, in order to prevent injustice and general dissatisfaction. As the technique of measuring benefit is improved, there is reason to believe

that many of the present objections to special assessments will disappear.

The suggestion is sometimes made that cities should place much greater reliance on the personal income tax. After all, income is doubtless the best test of ability to pay, and a properly administered levy on incomes contains many of the elements of a good tax. But administration must be in the hands of the state, or even the federal government. Otherwise the temptation to escape this form of taxation by moving just outside the city limits might be stronger than many persons could resist. Moreover, it would be a virtually impossible task for municipal officials to set up the necessary machinery. Yet there is no valid reason why every city should not be empowered to determine how much it wished to collect each year by means of an income tax, leaving the actual collection in the hands of state or federal officials.

The average city could obtain a great deal more revenue from fees without doing any injustice. Charges are usually quite inadequate for a vast number of essentially private services performed by city officials—the issuance of marriage licenses and building permits, the recording of important papers, such as wills and deeds, and the assignment of police to special duty at baseball games and prize fights. Services of this sort ought certainly to be self-supporting, and not a burden upon the public treasury.

As a rule, the rentals from city-owned property are far less than they should be. Though most municipal real estate is used directly by the city in the conduct of its affairs, some is usually leased to private persons. City wharves, market stalls, and refreshment stands in public parks are in this class. Land being accumulated for a civic center, or formerly used as a playground, might in many instances be rented. Often it is permitted to lie idle, representing a total loss to the city, since it pays neither rent nor taxes.

In many cities the interest rates on municipal bank deposits are unreasonably low. Sometimes council fixes by ordinance the rate to be arranged with the banks—perhaps

two and one-half or three per cent—and thus prevents the administrative officials from trying to strike a better bargain. But in the absence of an ordinance on the subject, excellent results can often be obtained by requiring competitive bidding for city accounts. In this way some cities have been able to force the interest rate on their inactive balances up to five per cent or more. Other municipalities have been less fortunate, however, because all the large banks have joined in bidding the same rate. The best cure for collusive bidding is widespread publicity. The banks need public confidence, and cannot afford to have it generally known that they are refusing to pay a fair rate of return on city deposits.

It is sometimes argued that city-owned utilities—water works, gas and electric plants, street car lines—should be made to meet some of the general cost of municipal government, in addition to paying for themselves. These important services are nearly always monopolies, and in all probability their rates could be increased considerably without forcing a widespread search for substitutes. The obvious objection to such a policy is that it lifts a portion of the general burden of city government from the shoulders of all the taxpayers, where it should properly rest, and puts it on the shoulders of certain selected groups—the users of street railways, electricity, gas and water. It necessarily assumes that the persons who use these services are best able to contribute to the upkeep of their local governments, and this assumption is fundamentally unsound. The man who regularly rides in city-owned street cars may be far less able to bear the indirect taxation which he must pay in the form of high fares than his neighbor who goes to work and pleasure in a private motor car. Most students of the problem agree that a municipal utility's rates are high enough when they produce a revenue sufficient to make it entirely self-supporting.

SELECTED REFERENCES

Anderson, William, *American City Government,* New York, 1925, Chap. XXI.

Babcock, F. M., *The Appraisal of Real Estate,* New York, 1920.
Beale, J. H., *Cases on Taxation,* Cambridge, 1922.
Buck, A. E., *Municipal Finance,* New York, 1926.
Hurd, R. M., *Principles of City Land Values,* New York, 1924.
Lutz, H. L., *Public Finance,* New York, 1924.
Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 556-77.
Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XLIII.
National Municipal League Committee, *Special Assessments,* 2nd ed., New York, 1924.
Newcomer, Mabel, *Separation of State and Local Revenues in the United States,* New York, 1917.
Nichols, Philip, *The Law of Taxation,* Boston, 1922.
Pollock, W. W. and Scholz, K. W. H., *The Science and Practice of Urban Land Valuation,* Philadelphia, 1926.
Purdy, Lawson, *The Assessment of Real Estate,* New York, 1923.
Ridley, C. E., *The Growing Importance of Special Assessments as a Source of Municipal Revenue,* New York, 1921.
Seligman, E. R. A., *Essays in Taxation,* 9th ed., New York, 1921, Chaps. I, II, XIII, XIV, XV, XX and XXI.
Special Joint Committee on Taxation and Retrenchment of New York State, *Report,* Legislative Document No. 80, 1920.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. V.
Zangerle, J. A., *Principles of Real Estate Appraising,* Cleveland, 1924.

Gulick, Luther, "A Model System of Municipal Revenues," *Bulletin of the National Tax Association,* Vol. VI, 1920.
Pennybacker, J. E., "A Sound Policy for Financing Street Improvements," *National Municipal Review,* Vol. XIII, 1924.

The revenues of cities, as well as other units of government, are considered at length in Volume CXIII of the *Annals of the American Academy of Political and Social Science,* May, 1924, which deals with *Competency and Economy in Public Expenditures.* Volume XCV, May, 1921, is entitled *Taxation and Public Expenditures.*
Financial Statistics of Cities, published annually by the U. S. Census Bureau, is especially valuable.

CHAPTER XX

PLANNING

In recent years attention has frequently been called to the need for intelligent guidance of city growth. It has become quite generally recognized that the future development of every community should be carefully planned, and not permitted to follow the dictates of immediate expediency or the unregulated desires of the real estate operators. But the planning movement is comparatively new, and today it is only just beginning to have a material effect upon American municipal development. With but a few outstanding exceptions, the cities of the United States have expanded in a haphazard way, largely indifferent to the future. They have made streets too narrow, water mains too small, parks too few. Costly testimonials to the short-sightedness of municipal officials are on every hand.

In one sense, of course, all our cities have been planned. They have been planned "in piecemeal fashion by surveyors acting for real estate owners, by railway engineers acting for their shareholders and traffic superintendents, and by individual architects and builders acting for their separate clients."[1] And the natural result has been an entire lack of co-ordination. Streets have been opened according to the immediate needs of each section, without reference to their effect upon the city street plan. Buildings have been erected without consideration for the general scheme of municipal development. Transportation facilities have been provided with slight attention to their effect upon traffic conditions. In short, there have been very few attempts to make city growth an integrated process.

[1] Adams, Thomas, "Modern City Planning," *National Municipal Review*, Vol. XI, No. 6 (June, 1922).

Some Cities Were Planned

There are, however, a few American cities which can boast that they were originally planned with some care. The oldest of them is Philadelphia. When William Penn arrived in the New World in 1682, to take possession of his colony, one of his first acts was to lay out a site for the "City of Brotherly Love." His plan was quite simple—almost crude. It consisted of two principal thoroughfares intersecting at right angles, with an open space at the point of intersection, and a considerable number of less important right-angle streets placed at regular intervals. One might well think that Penn derived his inspiration from a gridiron or a checkerboard. Indeed, his scheme of street layout, generally copied by American cities, has become known as the gridiron plan. Philadelphia has long since outgrown the limits imposed by its founder. Today it sprawls over one hundred and thirty square miles, an area sixty-five times as great as that for which Penn planned in 1682. But its downtown business section, and some of its residential districts also, still bear the indelible imprint of its original conception.

Washington, the national capital, is the most carefully planned of all large American cities. When the strip of territory bordering the Potomac was selected in 1791 as the seat of the national government, Major Pierre Charles L'Enfant, a French engineer who had served in the Continental army, was employed to prepare a suitable plan. He was a man of vision, and made his plans on so broad a scale that it took the city a hundred years to grow up to them. Many persons who visited Washington in the early days of its history derisively called it the "City of Magnificent Distances," or the "City of Streets without Houses." But it is a matter of record that most of the changes made in the original plan have since been generally regarded as unfortunate mistakes.[2] L'Enfant took the

[2] For example, the erection of the Treasury Building at such a place as to obstruct the view down Pennsylvania Avenue from the White House to the Capitol.

conventional gridiron plan of street layout, and superimposed upon it twenty-one diagonal avenues, with little islands of trees and shrubbery at the intersections. Streets were made wide, and ample space was left for federal buildings, so that today more than half of the city's total area is devoted to public use.

As early as 1807 some thought was given to the plan of New York City's streets. The early Dutch colonists had built scattered settlements on the southern part of Manhattan Island, the streets of each settlement being laid out without reference to the plans of its neighbors. As the communities grew, and the lengthening streets met at every conceivable angle, the result was hopeless confusion. So a commission was appointed to prepare a suitable plan, and in 1811 it made its report. The plan it recommended certainly had the virtue of simplicity. It contemplated streets sixty feet wide,[3] running from river to river, with short, two hundred-foot intervening blocks, and at right angles to these streets, running the length of the island, broad thoroughfares separated by long blocks. A few members of the commission were opposed to the adoption of the gridiron plan, but the majority felt that "a city must be composed principally of the habitations of men, and that straight-sided and right-angled houses are the most cheap to build and the most convenient to live in. The effect of these plain and simple reflections"[4] was sufficient to turn the tide. The commission's report was adopted by the city authorities, right-angle streets were laid out, and thus New York became an exponent of checkerboard planning. Its decision affected vitally the course of its own development, and may also have had a considerable influence upon street planning in the newer cities of the West, which looked to the metropolis for their inspiration. At any rate, the gridiron plan became practically universal. The New York plan of 1811 provided for numerous east-west streets, and comparatively few running the length of the island, on the

[3] Approximately every tenth street was given a width of one hundred feet.

[4] Lewis, Nelson P., *The Planning of the Modern City*, p. 89.

assumption that most of the traffic would be from river to river. This mistake, though natural enough, has since proved very costly. Modern methods of transportation have changed the direction of the traffic flow, but New York is still dominated, of necessity, by its early nineteenth century street layout.

City Planning Defined

City planning may well be defined as the guidance of the physical development of communities, for the purpose of attaining unity in their construction. It is concerned in part with the correction of past mistakes. If streets have been made too narrow it may be necessary to widen them, even at great expense. If existing transportation facilities have proved entirely inadequate, it may be desirable to discard them ruthlessly and begin all over again on a larger scale. If buildings have been built so high as to shut out light and air, the municipal authorities might conceivably have no choice but to condemn some of them and require the erection of smaller structures, compensating the owners at a cost of perhaps many million dollars. But it is obvious that reconstruction of this sort on an extensive scale is virtually impossible, unless carried on very slowly. It must be done with extreme caution. If the cities of the United States tried to correct all the mistakes of the past—to widen every street that was too narrow, to straighten every thoroughfare that was too crooked, to reduce the height of every building that was too tall, to eliminate every street car line that failed to give maximum service, and provide adequate sub-surface transportation instead—they would speedily place an intolerable burden on the taxpayers. When the planning movement concerns itself with the remaking of cities, it must proceed with care. What has been done in a century cannot be undone in a day.

The most important aspect of city planning is its emphasis on the future. It is concerned primarily with new development. Though it cannot correct many of the mistakes of the past, it can prevent their recurrence. This it can do for old cities as well as new, because the average

city is growing larger every year, spreading out over additional territory, supplanting old buildings with new, changing its boundary line whenever the legislature is so minded, and its sky line without the necessity of waiting for state consent.

Emphasis on the future is the most difficult, as well as the most important, phase of planning. It involves prophecy, and prophecy is always dangerous. A wrong guess may prove very costly. Take, for example, the case of playgrounds. Obviously some provision should be made for them in advance, for the cost of the land is likely to be prohibitive after a neighborhood has fully developed. Cities which never buy land until they need it are following an expensive policy. On the other hand, it is equally unwise to buy up large tracts many years in advance. Population growth may be less than anticipated, or in a different direction, and the city may find itself burdened with useless land which would otherwise be paying taxes. The proper procedure, of course, is to buy land before it is needed—but not too long before; to buy enough—but not too much. Yet how can city officials tell how rapidly population will grow, or what direction it will take? At best they can only estimate. Their estimates may be based on careful calculations, however. It is the business of the city planner to furnish these careful calculations. Take another illustration—the construction of a new water system. Should reservoirs and mains be of sufficient capacity to meet future needs, so that additions and enlargements will not become necessary for a number of years? If so, how large a surplus should they provide for? It is clear that they should not be designed in anticipation of a population growth which may not be realized for three-quarters of a century. For in that case the water users of the present would be paying interest and maintenance charges on a great deal of unused equipment. It is no easy task to draw the line between prudent foresight and extravagant expectations. It is no simple matter to determine what a city's future needs will be, and how they can best be met. But someone must accept the responsibility; someone must make intelligent

decisions. That is why city planning has acquired the dignity of a profession within a very few years.

Many persons confuse city planning with city beautification. They regard planning as primarily a job for the landscape architect, with a "city beautiful" as its goal. Small wonder, therefore, that it has proved difficult in the past to awaken widespread interest in the planning movement. Business and professional men who like to boast that they are intensely practical will not usually devote a great deal of their time and money to "impractical" esthetics. They are apt to regard tree-lined boulevards and extensive park systems as quite desirable, but not worth the expenditure of a great deal of city money. And their interest in city planning increases as they realize that beautification is but one phase. The scope of planning is as broad as the field of municipal activities. Its purpose is to bring about an intelligent development of every phase of municipal life. It is concerned not only with parks and landscapes, but also with street layout, the location of public buildings so as to insure maximum usefulness, and the regulation of private property in the interest of the general welfare. It includes traffic, transportation facilities, playgrounds, water supply, sanitation.

What Planning Includes

A city planning commission has no jurisdiction over the day-to-day administrative routine. Its task is to prepare, and perhaps to enforce, a carefully co-ordinated program of municipal development. With regard to traffic, for example, it considers immediate and ultimate means of relieving congestion, from increased utilization of existing routes to construction of triple-deck thoroughfares. But it has nothing to do with the enforcement of speed laws or parking regulations, or the training of policemen for traffic work. In dealing with water supply it forecasts the city's probable future water needs, and indicates the sections in which growing population is likely to make necessary large mains. It does not have a hand, however, in water works construction or meter inspection. It co-operates with the

primary departments of city government—or ought to, at any rate, for co-operation is of the utmost importance; but in no way does it usurp their functions.

The first matter to receive consideration in any city is usually the street layout. When the first cluster of houses marks the site of a city in embryo, important decisions must be made. Shall all street intersections be at right angles? Or shall radial thoroughfares be used to break the monotony and decrease the inconvenience of the conventional gridiron plan? What shall be the width of the streets? These questions are answered at the outset by public officials. After that, until recently, street development has been left to the real estate promoters. Private interest instead of public welfare has largely determined the location, direction and width of streets. Each promoter has planned his operation and marked off his building lots with a view to securing as large a return as possible. The inevitable result has been dead ends, streets too narrow or too wide, main thoroughfares too far apart or too close together, inadequate opportunities for through traffic to escape local congestion. These difficulties could have been avoided by continuous public control over the street plan. Realization of this fact has been partly responsible for the recent widespread adoption of city planning.

Sound principles should underlie the situation and architectural design of public buildings, but in most cities the determining factor has been ward politics. There has been an almost universal tendency to follow ward lines instead of population needs in locating such neighborhood necessities as schools, police stations, fire houses, branch libraries. Each section of the city has demanded what it conceived to be its share, without attempting to consider the question of need. It is obvious that public buildings of this type can achieve maximum usefulness only when they are placed in each section with a view to the functions they are to perform. They must be widely distributed, and not bunched in certain wards whose leaders are politically potent. On the other hand, it is not at all clear that every ward should have a police station or a fire house. There

are, of course, certain buildings in every city which must be centrally located. The city hall, the post office, the court house, the main public library, the municipal auditorium are included in this group. They are the show places among the city's public buildings, and it is an excellent plan to group them together in a civic center, with sufficient surrounding open space to let them be seen to advantage. Their architecture is a matter of considerable importance. Then, too, there are the pariahs among public buildings—unwanted but essential. Cities must have their prisons, poorhouses, garbage disposal plants. Some provision must be made for unpleasant sights, disagreeable odors, objectionable sounds. The tracts selected should be of sufficient size to insure permanent isolation.

In recent years cities have found it increasingly necessary to regulate private property, in order to prevent practices generally regarded as detrimental to the interests of the public. They have limited the height of buildings, to insure sufficient light and air and reduce the fire hazard. They have restricted the area which might be built upon, so as to prevent undue congestion. They have fixed by law the uses to which private property might be put, for the purpose of securing well-rounded development and maintaining real estate values.[5] These regulations, known as zoning restrictions, have been adopted in many instances without any clear understanding of the complex problems involved. Councilmen have often failed to realize the elementary truth that every attempt to control the development of private property in the public interest must be based upon a solid foundation of facts—the rate and the trend of the city's growth, the nature and number of its industries, the kind and extent of its transportation facilities. To furnish such a factual background is one of the functions of city planning.

It is especially important that careful attention be given

[5] City authorities are careful not to emphasize maintenance of real estate values as one of the purposes of zoning. Instead they talk about reduction of congestion or the fire hazard. This indirection has been made necessary by the attitude of the courts. See Chap. XXI.

to the problems of mass transportation. Every morning thousands—perhaps millions—of people travel from their homes in the outskirts to their places of employment in the center of the city. Every evening they reverse the process. After the evening meal comes another hegira of suburban folk on pleasure bent, and as the theatres and cafés close for the night there follows another exodus from the downtown section. At every hour of the day and night there is some cross-town travel. How can a city best meet the need for local transportation facilities? Ought it to rely solely on street car lines? Or should it supplement street cars with motor buses? Should it use buses to the exclusion of street cars wherever possible? When ought it to provide rapid transit facilities—elevated and subway lines? Should the cheap but noisy and unsightly elevated be preferred to the expensive but unobtrusive subway? And what of the steam railroad? Originally the steam lines were used almost exclusively for city-to-eity journeys, but in recent years they have handled an increasing amount of city-suburban travel. Always they have created serious problems—most serious of all, the problem of securing access to the city's center. A railroad terminal situated in the heart of the downtown business district used to mean a long succession of dangerous grade crossings where tracks intersected city streets. Today it is more likely to mean a series of tracks elevated safely above the street level, but forming an unsightly barrier to normal city growth. The city with two or three terminals instead of one has problems of corresponding complexity. An obvious partial solution is to require all railroads entering the city to use the same tracks within the municipal limits, and share a union terminal. This scheme may offer no difficulties when a new city is being planned, but new cities are not planned every day. More commonly the planner is expected to solve the problems of existing cities, taking conditions as he finds them. And he may find it virtually impossible to guide into a single terminal all the railroads which enter the city. The union terminal idea is becoming increasingly popular —deservedly so; but it is not always practicable. Any

satisfactory solution of the problems presented by the steam railroads must be based upon an intimate knowledge of local conditions.

The relation of the city planner to the traffic problem is obvious. He can suggest immediate relief in the form of alternate traffic routes, downtown storage garages, and parking facilities just outside the traffic zone. He can point out the need for widening some existing thoroughfares and building some new ones. He can furnish detailed studies to serve as a basis for the co-ordination of existing transportation facilities. Most important of all, he can direct the movement to prevent still further congestion in the great metropolitan areas. Many persons believe that if the cities are permitted to grow unchecked and unguided, rearing their skyscrapers so high that the streets become mere canyons of darkness, the traffic problem will eventually defy solution.

Every phase of municipal activity needs intelligent guidance; every branch of the city government must rely on the city planner for a forecast of future needs. Careful planning reduces the element of uncertainty, in government as in everything else. It eliminates the necessity of merely living from day to day. The planning movement, therefore, deals with aviation fields quite as much as with union terminals; it is concerned with sanitation as well as traffic. It involves not only parks and playgrounds, but also water front development. It is all-inclusive.

Planning Commissions

Until the beginning of the present century city planning was almost entirely a matter of private initiative. Groups of public-spirited citizens organized and financed commissions to study the problems of municipal growth and prepare plans for councilmanic approval. After a time city officials manifested interest in the movement. The public commission became the vogue—usually appointed by the mayor, though not infrequently composed of ex officio members. Its task was to frame a satisfactory city plan for the consideration of council. Having prepared such a plan,

it immediately passed out of existence. As a result there was no agency specifically charged with the duty of enforcement. In the average city private property owners completely ignored the plan, and lukewarm city officials paid scant attention to it. The need for a permanent body to supervise the city plan, and to modify it from time to time in the light of changing conditions, became apparent. In 1907 Hartford led the way by creating a permanent, official planning commission of eight members, serving without pay and utilizing the staff of the municipal engineering department. Other cities soon fell into line. Within a decade at least three dozen of the larger cities had set up permanent public planning commissions, and today such commissions are found in most cities whose populations exceed thirty thousand.

As might be expected, there is no uniformity. The commissions vary in size from three members to three hundred and twenty-eight.[6] Five is the most common number, though there are a great many seven-member planning bodies. Usually the commission is composed of private citizens appointed by the mayor, but occasionally appointment is vested in the council, the manager or the commission. The town planning board of Lawrence, Massachusetts, is elected by the voters. In some cities certain officials, such as the mayor, the municipal engineer, and the director of parks and playgrounds, serve with the appointed members, and in a few instances the entire membership is ex officio. As a rule, the men and women appointed to city planning boards serve without compensation. Los Angeles, however, pays by the day. Terms of office vary from one year to seven. Five year terms are most common. Frequently the terms of office are overlapping, one vacancy occurring every year. It is customary to employ a city planning expert to serve with the commission, either as a full-time executive or a part-time consultant, but some cities place the entire burden on the lay commissioners, with such help as can be secured from the engineering department.

[6] A city planning commission of 328 members is found in Chicago. Obviously this body is too unwieldy for effective work. Most of the members are inactive.

There is also great variation among planning commissions as to the powers they may exercise. Sometimes the commission is purely advisory, framing a plan which may be brushed aside without consideration by the city council. Sometimes, on the other hand, it is a powerful body with virtually complete authority over public improvements, subject only to the financial control of council. More commonly, however, it occupies a position somewhere between these two extremes. All matters relating to the city plan must be referred to the planning commission before final action is taken. No new street may be cut through, no new public building may be erected, no public utility may be authorized to use additional public property until the commission has considered the project and registered its approval or dissent. Its views may be in no way binding upon other municipal officials, but at least it is given an opportunity to express its opinion. And if the council authorizes permanent improvements contrary to the commission's advice, it does so with the full knowledge that it is flouting the judgment of the body presumably best qualified to pass upon the matter. Its action is fairly certain to cause unfavorable public comment, and councilmen may find themselves under the necessity of making embarrassing explanations when they appeal to their constituents for re-election.[7]

The first task of a newly created planning commission is to secure the necessary data on which intelligent planning must be based. A technical expert should be employed to direct this phase of the work—on a full-time basis, if possible. He should be encouraged to co-operate with the city

[7] The Standard City Planning Enabling Act, prepared as a guide for American municipalities by the Advisory Committee on City Planning and Zoning of the U. S. Department of Commerce, provides that "no street, square, park or other public way, ground or open space, or public building or structure or public utility whether publicly or privately owned, shall be constructed or authorized in the municipality or in such planned section and district until the location, character and extent thereof shall have been submitted to and approved by the commission," unless the commission's action is overruled by a two-thirds vote of the entire membership of council. See Sec. 9 of the Act.

engineer, for the success of any city plan depends in large measure upon the city engineer's ability and interest. The commission's consultant may prepare the plan, but the city engineer must carry it out. It is also important to have the sympathetic co-operation of all the other municipal officials. To them the commission must turn for a great deal of essential information.

First, a number of maps must be prepared. One, for example, should show the physical characteristics of the city and its surrounding metropolitan region. Another, drawn on a much larger scale, should give a clear picture of the main highways, railways, waterways and other broad features of the city and its immediate environs. A third should be drawn on a still larger scale to show the city's exact details—streets and blocks, buildings and vacant lots, topography. Whenever feasible, aerial maps should be used to round out the picture. A great deal of the necessary information cannot be shown on maps, and must be included in rather elaborate reports. A careful study must be made of the local government as it affects city planning. Attention must be paid to state laws, charter provisions, fire ordinances and building codes. The location and trend of industry in general and of specific industries must be noted. If certain outlying districts are rapidly losing their residential character, and becoming centers of industrial growth, that fact may be of tremendous importance in determining the exact nature of the city plan. Housing conditions must be studied, with regard to the character of the homes, sanitary arrangements, evidences of overcrowding. Attention must be given to the means of communication and distribution. There must be studies of the railroads and their terminals, grade crossings and street approaches to stations, volume and kind of traffic. The street railways must be considered, for they present a number of serious problems. To what extent do their facilities seem adequate to meet existing needs? What extensions and developments may be required to meet the demands of the next fifty years? How can those demands best be met? To what extent do car tracks interfere with the movement of

free wheel vehicles? Where should tracks be eliminated, if at all? These questions cannot be answered until additional information is secured. Something must be known of population trends—the movement of people from the heart of the city to its suburbs, and the sections most affected by the change. Complete information must be had concerning the street plan—thoroughfares and secondary streets, street widths and grades. Areas of traffic congestion, together with points of collision, methods of regulating traffic and a score of related matters must be included. Some thought should be given to available sources of power supply, present methods of distribution, and facilities for extension. Every phase of water supply should be considered—sources, quantity used, existing facilities, possibility of expansion, pressure for fire purposes, areas served. Sewage disposal methods should be studied. With a view to the preparation of a zoning ordinance, detailed information must be obtained concerning every aspect of building development—residence, business and industrial areas, detached, semi-detached and row houses, apartments and tenements, location of public garages and filling stations, private restrictions imposed by original owners and public restrictions imposed by building ordinances. There must be a careful study of parks, playgrounds and other public recreation facilities. Information must be had with respect to schools, hospitals, social centers. Something must be known of the city's fiscal affairs—its tax system, its methods of assessing private property, its use of special assessments, its present indebtedness and its debt limits. This list of subjects to be studied is rather imposing, but it is not complete. There are still other data, less important but undoubtedly significant, which should be in the hands of the commission before it attempts to draft a workable city plan.

Of course, when a city planning commission first begins its task, it will sometimes find a great deal of this necessary information at hand. It may discover a careful record of existing recreation facilities, for example, prepared by the local playground society. The housing situation may be

presented in recent publications of the city's housing association. The chamber of commerce may be able to supply definite information concerning population trends or movements of industry. The street railway company should be in a position to contribute worthwhile data as to the city's existing and probable future mass transportation needs. Planners in every city use to advantage the nation-wide studies of population density made by the Bell Telephone System. But much vital information—most of it, in all probability—is not readily available in suitable form. Even the studies made by playground associations or chambers of commerce may prove totally unsuited to the planning commission's needs. Prepared for different purposes, they may throw very little light on the planning problem. At any rate, the facts must be obtained. If they can be borrowed from some other agency, public or private, so much the better. If not, the work must be done by the staff of the commission.

Then arises the necessity for interpreting this vast mass of information. To say that certain sections of the city are growing faster than others, that some districts are retaining their residential character while others are becoming rapidly industrialized, or that every year the city's street car riders increase five or ten per cent, is to tell but half the story. For these facts have no real significance until they are translated in terms of future needs. Has a rapidly growing section already reached the peak of its development, or is its expansion likely to continue? Will the rate of growth be as great in the future as in the past? Will the congestion at the city's center be greater twenty-five years from now than it is today? If so, how much greater? Or will the forces of decentralization operate more effectively than heretofore? Will suburban department stores and outlying factories eliminate or reduce the need for additional traffic facilities? Such are the questions the city planner must answer. To answer them in an intelligent manner is not easy. Almost anyone with the proper training can secure the necessary information, but

only a person of sound judgment and extraordinary acumen, possessing the ability to distinguish between the significant and the trivial, can properly interpret it.

Even the best of city planners are certain to make mistakes. Some of their forecasts are sure to be wrong, no matter what precautions they may take to insure accuracy. For no man can tell with absolute certainty whether a city's population will expand in one direction rather than another. No man can know in advance exactly what the future development of every neighborhood will be. Real estate operators and professional speculators make it their business to guess, and frequently their guesses lead them into bankruptcy. There is no reason to think that the city planner, even with accurate, detailed information at his finger tips, can be right every time. This does not mean, however, that planning is valueless. Far from it. Intelligent forecasting, even though it is only sixty or seventy per cent accurate, is greatly to be preferred to no forecasting at all. Predictions based on carefully compiled data are worth far more than predictions based solely on guesswork or the caprice of municipal administrators.

Moreover, the city plan is not a static thing. It does not bind the city, once and for all, to the adoption of policies which may later prove undesirable. If the passage of a few years reveals the fallacy of some original assumptions, the plan can be adjusted accordingly. If street railway traffic, for example, increases more rapidly than at first anticipated, subway construction can be given earlier consideration. If one district fails to grow as rapidly as it gave promise of doing, the proposed construction of additional schools, branch libraries and the like can readily be postponed. If unforeseen circumstances bring about a shift in traffic movements, new thoroughfares can be added to the plan. In most cities, except the very smallest, the planning commission is a permanent body,[8] and it should keep a careful record of changing conditions, making such modifications in the plan as may be necessary from time to time.

[8] See p. 467.

The Region

Two decades ago the city planning movement was just beginning to gather momentum. Men were thinking in terms of guided, coherent city growth, almost for the first time. Today it is quite generally recognized that the original concept of *city* planning was too narrow, too restricted to accomplish maximum results. For, after all, cities are nothing more than municipal corporations whose boundaries have been fixed by the state legislature. As a rule they are merely the cores of encircling regions. Economically city and region are one, even though artificial distinctions are established and maintained by state laws.[9] The proper unit for planning, therefore, is not the city, but the region. Transportation, water supply, sewage disposal, fire prevention—virtually all the problems of the city are equally the problems of the territory which lies just beyond its borders. It will not do to plan highways, land development, or recreation facilities within the municipal limits only, leaving the solution of these problems just beyond the boundary line to the gods of chance. For purposes of planning, city and region must be treated as an integrated whole.

State legislators are not slow to recognize this principle, but they find difficulty in applying it. As soon as they begin to consider the possibility of a planning commission for an entire region, they are confronted with a host of new and perplexing problems. For example, what shall the boundaries of the region be? How shall the various political units within its borders—cities, towns, boroughs, perhaps counties—be represented on the commission? Shall the city, with its larger population, be permitted to dictate the commission's policies? Or shall every town within the region be given equal representation? How shall the regional plan be carried out? Shall the regional commission be transformed into a board of public works, and authorized to execute every detail? Or shall the ultimate decision as to the commission's proposals rest with the

[9] See Chap. VI.

local legislative bodies? Presumably the several councils operating within the region must pass final judgment. But suppose they disagree, as in all probability they will? How shall such disputes be reconciled?

These practical obstacles to regional planning have prevented it from securing extensive official recognition. In almost all cases the permanent, official planning commission is a city commission, often exercising limited jurisdiction for a distance of three miles or slightly more beyond the municipal boundaries, but making no attempt to deal with the entire economic region. There are some exceptions, of course—the planning division of the Boston metropolitan district commission,[10] the planning commission of Los Angeles County,[11] and a few other county planning commissions. But these exceptions serve only to emphasize the general lack of official regional planning boards.

Regional planning has just arrived at the stage of development reached by city planning twenty or twenty-five years ago. Its importance is widely recognized, but public officials are unable or unwilling to provide for it, and so it must still rest largely with private initiative. In many of the larger cities of the United States regional surveys are now on foot, privately directed and privately financed. The ambitious "Regional Plan of New York and Its Environs," under the direction of the Russell Sage Foundation, was completed in 1929. The New York metropolitan region for which this plan was drafted has an area of about fifty-five hundred square miles, and a population of more than nine millions. It includes not only ten New York counties and portions of two others, but also a considerable strip of adjacent territory in New Jersey and a small section of Connecticut. Less extensive, but embracing large areas nevertheless, are the privately financed regional plans of Chicago, Philadelphia, San Francisco, Minneapolis-St. Paul. Most state legislatures, it seems, have failed to catch the vision of regional needs, or have been loath to wrestle with the problems of regional organization.

[10] See p. 137.
[11] See p. 138.

How Land Is Acquired

In order to carry out a city plan, it is necessary to divert a great deal of land from private to public purposes. The city must acquire sites for public buildings of every description, from public libraries to sewage disposal plants. It must have title to many acres for parks and playgrounds. It must make certain that space is reserved for streets of adequate width. Most of the land it needs is in private hands, and must be taken from the owners with or without their consent. There are a number of ways in which a city may obtain land. One is by dedication—the giving of land to the city for a specific public purpose. The owner of a new real estate development, for example, dedicates certain portions of his tract to the city to be used for streets. In so doing, he is actuated by no extraordinary sense of civic responsibility. His generosity can readily be explained in terms of dollars and cents. For unless he can persuade the municipal authorities to accept his dedication, the streets of his subdivision must remain private property —repaired, and probably lighted and cleaned, at private expense. In other words, he cannot reasonably hope to sell a single building lot.

With respect to new developments, therefore, the city is in a particularly fortunate position. It is able to insist that the streets be made sufficiently wide, that they be cut through where needed—in a word, that they conform to the general street layout and the city plan. It can refuse to accept the responsibility for maintaining poorly designed streets, and compel private operators to consider the public good. It can enforce definite rules concerning not only street width and location, but also such matters as block lengths, lot sizes, street grades. Unfortunately, many cities have failed to take advantage of their opportunities. All too often they have accepted the dedication of new streets laid out without regard to the general scheme of municipal development. They have adopted plans without compelling anybody to abide by them.

A great deal of land, especially in the more highly de-

veloped sections of the city, must be paid for. When a new site is selected for a municipal auditorium, or it is decided to make an old street wider, the city cannot reasonably expect private property owners to present it with the necessary land. Occasionally a wealthy citizen may donate a few acres for a park or playground, but such sporadic generosity falls far short of satisfying any city's land needs. Sometimes a city goes into the open market, and purchases its land in competition with other bidders. This is not usually done, however, for it is apt to prove too expensive. The average owner suddenly acquires a very exaggerated opinion of his property's worth when he learns that the city is desirous of buying it. Moreover, corrupt municipal officials have occasionally been known to approve the buying of land from their friends at fancy prices, later sharing in the profit. The charters of a number of cities, therefore, actually prohibit the purchase of municipal land in the open market.

Land is usually acquired by a city under its power of eminent domain—that is, its supreme right to take private land for a public purpose. The purpose must be undisputedly public, however; a city may not take property from one private owner for the purpose of giving it to another private owner. Fair compensation must be paid for the land taken, the exact meaning of "fair compensation" being determined by the courts if the owner and the city are unable to agree. The various steps by which a city acquires land under its power of eminent domain are known as "condemnation" proceedings. Details differ slightly from state to state, but everywhere the method is much the same. Due notice is given, and a public hearing is held. If an owner is dissatisfied with the price offered by the city, he may begin a civil suit for damages. The value of his land is thus judicially determined.

There are times when it would undoubtedly be to the advantage of the city to condemn some land in excess of what is actually needed for any specific improvement. When a new street is cut through, for example, small remnants of lots are often left on either side. These strips may be too

small for independent improvement, and may serve only to destroy the value and prevent the development of the building sites directly back of them. Years may pass before private initiative unites in common ownership every remnant with the lot of which it is properly a part. In the meantime the city will undoubtedly lose a great deal in taxes, and the new street may be given such an unattractive appearance that its usefulness will be permanently impaired. If the city could take the remnants along with the land needed directly for the improvement, selling these unneeded segments to the property owners most directly concerned, the result would often be more satisfactory real estate development. There are other occasions, also, when the city would be the gainer if it could condemn surplus land. After spending hundreds of thousands of dollars of public money to beautify a new boulevard, for example, municipal officials would like to be in a position to protect the beauty they have created. They would welcome the authority to prevent the erection of cheap, unsightly buildings on adjacent land by the simple process of purchasing the bordering lots and selling them, with suitable restrictions, to other private owners. Moreover, every great public improvement enhances the value of private property in its vicinity. Some persons argue that the cities should have the power to buy the neighboring land before the improvement is begun, later selling it to private owners at a considerable increase in price. In this way, they declare, the public would receive the benefit of publicly created values.

The courts of the several states, however, have generally regarded with disfavor every attempt of the cities to take more land than actually needed for specific improvements. They have repeatedly declared that taking land for the purpose of re-selling it is not taking for a public purpose —and therefore unconstitutional. As a result of these decisions, a number of states have modified their constitutions to permit excess condemnation, but the power thus conferred has not been used so extensively as anticipated.

The importance of planning has been definitely estab-

lished, but the problems raised by it are still in process of solution. The need of forecasting future municipal and regional development has received widespread recognition, but the technique of forecasting is still far from perfect. It is no easy task to plan the cities of today so that they will be better fitted to the needs of the citizens of tomorrow. Moreover, many municipal officials are not greatly interested. For in the field of planning the work of one administration may not bear fruit until many other administrations have passed. The constructive genius of a far-seeing mayor may not be fully recognized for half a century. Unfortunately, a considerable number of mayors and councilmen are quite indifferent to the prospect of future glory. They devote most of their time to activities that will bring tangible rewards not later than the next election.

SELECTED REFERENCES

Chicago Bureau of Public Efficiency, *Report on Excess Condemnation,* Chicago, 1918.

Cushman, R. E., *Excess Condemnation,* New York, 1917.

Hubbard, Theodora K. and McNamara, Katherine, *Planning Information Up-to-Date,* Cambridge, 1928.

Illinois Constitutional Convention, Bulletin, *Eminent Domain and Excess Condemnation,* Springfield, Ill., 1920.

James, Harlean, *Land Planning in the United States for City, State and Nation,* New York, 1926.

Kimball, Theodora, *Manual of Information on City Planning and Zoning,* Cambridge, 1923.

Lewis, N. P., *The Planning of the Modern City,* 2nd ed., New York, 1923.

MacKaye, Benton, *The New Exploration,* New York, 1928.

Massachusetts Constitutional Convention, Bulletin, *Excess Condemnation,* Boston, 1917.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 358-403.

McBain, H. L., *American City Progress and the Law,* New York, 1918, pp. 124-52.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XXVI.

Nolen, John, ed., *City Planning,* New York, 1916.

Robinson, Charles M., *City Planning,* New York, 1916.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XII.

U. S. Department of Commerce, *A Standard City Planning Enabling Act,* Washington, 1927.

Williams, Frank B., *The Law of City Planning and Zoning,* New York, 1922.

Adams, Thomas, "Modern City Planning," *National Municipal Review Supplement,* June, 1922.

Beard, Charles A., "Conflicts in City Planning," *Yale Review,* October, 1927.

——"Some Aspects of Regional Planning," *American Political Science Review,* May, 1926.

Goodrich, E. P., "Airports as a Factor in City Planning," *National Municipal Review,* March, 1928.

Long, H. E., "Relation of Regional Plan Work to Public Health Engineering," *American Journal of Public Health,* October, 1927.

Purdy, Lawson, "Why We Need Excess Condemnation," *National Municipal Review,* Vol. XII, pp. 363-8, 1923.

Reitell, Charles, "The Courts and Excess Condemnation," *American City,* Vol. XV, 1916.

Strong, J. H., "Regional Planning and Its Relation to the Traffic Problem," *Annals of the American Academy of Political and Social Science,* November, 1927.

Swan, H. S., "Excess Condemnation," *National Municipal Review,* Vol. VIII, 1919.

Swan, H. S. and Tuttle, G. W., "Land Subdivisions and the City Plan," *National Municipal Review Supplement,* July, 1925.

City Planning, a quarterly magazine, contains a great deal of current information concerning the planning movement.

The Regional Plan of New York and Its Environs, under the direction of Thomas Adams, has published a large number of studies which are of great interest to every student of planning. Note especially *Major Economic Factors in Growth and Arrangement,* 1928, and *Population, Land Values and Government,* 1929.

CHAPTER XXI

ZONING

Zoning, as its name implies, is the division of a city into zones or districts, for the purpose of applying different regulations to the property within each district. It includes limitations on the height of buildings, the percentage of the total lot area which they may occupy, and the uses to which they may be put. It is intended to insure a well-rounded municipal development by stabilizing the character of neighborhoods and preventing the multiplication of congested areas. It is, in fact, only a phase of city planning, but so important a phase as to merit separate consideration.

The zoning movement is of very recent origin. Two decades ago not a single American city had adopted a comprehensive zoning ordinance. But restrictions on private property, imposed by city or state, have long been common. For more than a century it has been customary to prohibit the erection of wooden buildings in congested districts, in order to reduce the likelihood of conflagrations. As early as 1795 the Pennsylvania legislature enacted such a law, and it was upheld by the courts of the state.[1] In nearly every city, certain offensive trades have been regularly excluded from residential districts, and perhaps from sections composed largely of retail stores. Many a slaughter house or fertilizer plant, for example, has been compelled by municipal ordinance to settle in some isolated section of the city, or has even been denied the right to operate within city limits. Many a livery stable has been legislated out of a residential neighborhood. Even laundries, junk shops and motion picture theatres have been made the subject of restrictive ordinances. Virtually every business which might under certain circumstances be classed as objection-

[1] Respublica *v.* Duquet, 2 Yeates (Penna.) 492 (1795).

able has been regulated, at one time or another, by city ordinance or state law.

Of course, these restrictions have been of limited value. They have failed to shut out ordinary retail stores from residential districts, though the intrusion of stores into neighborhoods of homes has usually had an unfortunate effect upon property values. They have not prevented the erection of buildings totally unsuited to their surroundings, with consequent economic waste. They have not checked the lopsided growth of communities. Nor have private restrictions proved much more satisfactory. For many years it has been customary for promoters of high grade residential developments to place restrictions of various kinds on the lots they have for sale—perhaps prohibiting stores altogether. But such private covenants are not enforced by the municipal authorities, and if someone proceeds to violate his agreement, his neighbors must bring suit. In many cases the limitations are only temporary, applying for but twenty or twenty-five years, and as the time limit approaches, neighborhood development is inevitably retarded. Vacant lots are withheld from improvement, and homes are permitted to run down, because it is known that in a short time the invasion of stores—perhaps even manufacturing plants—is likely to depreciate property values. Sometimes private restrictions are made perpetual in explicit terms, but even then they are likely to be set aside by the courts after a few decades, as no longer applicable to changing conditions, and therefore unreasonable. Even under the most favorable circumstances, therefore, private restrictions furnish only a very meagre form of protection. They are never used to prevent some of the most objectionable features of unguided city growth—the erection of excessively tall buildings, for example, or the invasion by industry of business neighborhoods.

Until recent years the cities of the United States have had no effective way of directing the development of private property. But the widespread acceptance of zoning, not only by the people but also by the courts, has placed in the hands of city officials a considerable measure of con-

trol over private land and buildings. It has enabled them to guide private enterprise, and to veto proposals at variance with the general city plan. It has made possible coordinated municipal development.

Even before the days of comprehensive zoning, however, a considerable number of American cities had adopted regulations limiting the height of buildings or the uses to which they might be put—zoning regulations, though not called by that name. As early as 1885 the maximum height of New York City dwelling houses was fixed at seventy or eighty feet, according to the street width. Chicago followed New York's example in 1892, and a few years afterward Boston established separate height limits for business and residential neighborhoods. The constitutionality of Boston's ordinance was argued before the highest court of Massachusetts, and later before the Supreme Court of the United States, and was upheld.[2] Height restrictions were also established in Baltimore, Washington, New Orleans and perhaps a dozen other metropolitan centers. In 1909 Los Angeles was divided into residential and industrial districts, and industry was excluded from the neighborhoods designated as residential. But not until 1916 was any city in the United States fully zoned. In that year New York City led the way with a detailed zoning ordinance, containing height, use and area restrictions applicable to virtually all private property within the city limits. The zoning movement had begun in Germany more than three decades earlier, and England had accepted the zoning principle in its town planning act of 1909.

Perhaps no civic innovation ever received such rapid and widespread approval as zoning. Following New York's example, the cities of the United States, one after another, have secured the necessary authority from their respective state legislatures, and have begun to regulate systematically the property within their borders. Especially since 1921 the movement has gained momentum. In the summer of that year there were only forty-eight zoned American

[2] Welch *v.* Swasey, 193 Mass. 364 (1908). Affirmed, 214 U. S. 91 (1909).

cities; two and one-half years later the number had increased five fold. By the middle of 1928 there were five hundred and eighty-three zoned cities in the United States, their combined populations totalling over thirty-one million. Nearly every state of the Union can now boast of at least one city where zoning is in force or under consideration. Comprehensive zoning—use, height, and area—is the rule, but some municipalities zone only for use, while a very few regulate only use and height or use and area.

Use, Height and Area Districts

The use districts are generally considered first. After they have been agreed upon, it is a comparatively simple matter to map the height and area districts. First it is necessary to decide the predominant character of every small section of the city—perhaps of every block, in certain neighborhoods. If a district is composed entirely of homes, or entirely of office buildings, it can be classified without difficulty. But seldom will such homogeneity be found. In the average American city, stores and public garages have forced their way into residential neighborhoods. A block of stately homes may be flanked by a delicatessen store and a filling station. Such a situation presents a serious problem to men whose task is to frame a zoning ordinance. Shall the neighborhood be classed as residential, and other stores and filling stations excluded? Or does the presence of a few businesses suggest that the future development of the section is properly along business lines? The answer is certain to have a far-reaching effect upon the district's growth. Fine residences may be protected, or instead doomed to certain deterioration and decay. A growing business center may be encouraged; on the other hand, its expansion may be prohibited by law.

The number of classes of use districts in a zoned city ranges from three to eight, or even more. When but three classes of districts are used, every section is labeled residential, business or industrial. The effect of this classification is to exclude business from residence districts, and to shut out industry from districts marked residential or

business. As a rule, there is nothing to prevent the erection of private homes in a section set aside for business or industry, or to keep stores out of an industrial district. This is natural enough, for the presence of stores or factories may depreciate property values in a neighborhood of homes, and unsightly factories, with their noise and dirt, may ruin a section of exclusive retail shops; but an industrial neighborhood is not likely to suffer because it contains some stores and residences. A few of the more recent zoning ordinances, however, have broken with precedent, and excluded private homes from districts labeled industrial. This has been done on the readily defensible theory that factory neighborhoods are not fit places for men and women to live and rear their families. If the industrial zones are small, and adjacent to residence districts where cheap homes are plentiful, the plan may work well. Otherwise it may place a heavy burden, in time and carfare, upon the workers.

When a city has more than three classes of use districts, the three primary—residential, business and industrial—are subdivided. There may be two kinds of residential districts, one which permits only one- and two-family dwellings, and one which also includes apartment houses and hotels. Or there may be three classes of districts devoted to residences. There may be as many as three kinds of industrial districts—one for light industry which occasions no objectionable odors or sounds, one for semi-noxious factories emitting heavy smoke, excessive dirt and dust, or deafening noise, and one for industrial enterprises of the most objectionable sort, such as fertilizer plants. Use districts are commonly indicated by arbitrary symbols. U1, for example, may signify districts of one- and two-family residences; U7 or U8, at the other end of the scale, may be unrestricted, permitting even noxious trades.

The height districts of a city are usually laid out with reference to its use districts, though there may be some overlapping, especially in the larger cities. The tallest buildings, of course, are permitted in the heart of the central business section, while in the residence districts build-

ings in excess of thirty-five or forty feet may be prohibited. In an intermediate class may be placed apartment houses and certain types of industry. Height limits are sometimes expressed in terms of feet or number of stories, but more commonly in multiples of street width. Thus the buildings in class H1 may be restricted to a height of three-fourths of the width of the street on which they face, while in class H4 or H5 the maximum height may be two and one-half times the street width. Zoning ordinances commonly permit the erection of buildings higher than the flat maximum in any class, provided the upper stories are set back a certain number of feet. The law may stipulate, for example, that for every foot a building extends above the limit there must be a setback of one foot. Provisions of this sort, if properly framed, insure a light angle that will permit the lower floors of buildings on the opposite side of the street from a tall structure to receive direct sunlight during at least a portion of the day. One of the interesting results of the setback requirements in zoning ordinances has been a gradual change in the character of skyscraper architecture. The newer tall buildings no longer resemble packing boxes set on end. Instead, their upper stories taper off, providing greater opportunity for ornamentation.

Area districts are also established with reference to the use districts, though probably not duplicating them, except in small communities. In many business and industrial sections a building may occupy virtually the entire lot; in residential neighborhoods a considerable percentage of open space is required. Area regulations may take a number of different forms. They may simply provide for minimum yards and alleys; they may require buildings to be set back a certain distance from the street, or from their neighbors;[3] they may prescribe for each district the

[3] Building lines have often been frowned upon by the courts as an unreasonable interference with private property. See, for example, People *ex rel.* Dilzer *v.* Calder, 89 N. Y. App. Div. 503 (1903); Eaton *v.* Village of South Orange, 130 Atl. 362 (1925). But in 1927 the Supreme Court of the United States put itself on record as favoring reasonable building lines. Gorieb *v.* Fox *et al.*, 274 U. S. 603.

minimum number of square feet of lot area per family; or, as is most often done, they may fix the maximum percentage of the total lot area which may be built upon. In any event, they are designed to secure to each building its share of light and air, and to prevent undue congestion, especially in residential districts.

The Non-conforming Building

When a city decides to adopt a zoning ordinance, it is inevitably faced with the problem of the non-conforming building. Some shops are virtually certain to be found in districts classed as residential; some three- or four-hundred foot skyscrapers are almost sure to tower above newly established height limits. What shall be done with these non-conformists? Shall they be permitted to remain, and treated as exceptions to the new rules? Or shall the city decree that they will no longer be tolerated, and compel their transformation—from a tailor shop to a residence, perhaps, or from a skyscraper to a building of more modest height? To make exceptions is to weaken the zoning ordinance, and accept something short of the ideal. On the other hand, to require the partial destruction of tall buildings erected in good faith and the removal from residential neighborhoods of legitimate businesses conducted in an orderly manner is to place an intolerable burden upon many property owners. When Los Angeles first adopted the principle of use zoning in 1909, establishing one residence district and twenty-five industrial districts, it made its ordinance retroactive, and ordered the removal from residential neighborhoods of every "stone crusher, rolling mill, carpet-beating establishment, fireworks factory, soap factory," plus a number of other objectionable trades. Some of the property owners who were forced to remove their businesses contested the constitutionality of the ordinance, and one of the cases was carried to the Supreme Court of the United States. There the power of a city to direct its growth, even to the extent of compelling the uprooting of semi-noxious businesses, was upheld. Said the court: "A vested interest cannot

be assigned against it [the police power] because of conditions once obtaining. To so hold would preclude development and fix a city forever in its primitive conditions. There must be progress, and if in its march private interests are in the way, they must yield to the good of the community. The logical result of petitioner's contention would seem to be that a city could not be formed or enlarged against the resistance of an occupant of the ground, and that if it grows at all it can grow only as the environment of the occupations that are usually banished to the purlieus.''[4]

The early example of Los Angeles in enacting a retroactive use zoning ordinance did not set a precedent, however. Instead, it soon became the universal rule to permit non-conforming buildings to remain, treating them as exceptions. Every zoned city today has its non-conforming buildings, erected before the zoning era, and allowed to stay until wiped out of existence by an act of God, the condemnation of the building inspector, or the march of progress. No other plan would be feasible, for it is virtually certain that the courts would declare unreasonable, and therefore void, any zoning ordinance which compelled apartment houses and retail shops to move out of residential neighborhoods. There is a world of difference, legally and practically, between telling a man that he cannot put a store on his vacant lot and telling him that he must tear down the store he has already built and operated. The retroactive ordinance of Los Angeles never attempted to interfere with established stores and apartment houses; it confined itself to objectionable industries which might fairly be classed as nuisances if found in a district of homes—stone crushers, fireworks factories, brick yards and the like.

The preparation of the zoning ordinance is frequently entrusted to the planning commission, but quite often a separate zoning commission is created. The first step, of

[4] Hadacheck *v.* Sebastian, 239 U. S. 394 (1915), quoted in Helen M. Werner's *The Constitutionality of Zoning Regulations*, pp. 45-6. Miss Werner's discussion of this phase of zoning is lucid and concise.

course, is the collection of the necessary data. Maps must be made showing the character of every parcel of land in the city—whether vacant or built upon, whether totally or partially covered by buildings, whether used for homes, stores or factories. Building heights must also be indicated. With this information at hand, the essential character of each neighborhood can be determined. Use, height and area zones can be established in such a way as to insure well-balanced development. Maps should be prepared showing these different districts, and should be made a part of the zoning ordinance.

Of course, some errors of judgment are bound to creep in, no matter how carefully the zoning ordinance is prepared. Some property is certain to receive unfair treatment, and thus suffer an undeserved loss of value. There are so many factors to be considered, so many chances to classify improperly, that it would take superhuman wisdom to frame a perfect zoning ordinance for a large city. It is very important, therefore, to have a permanent board of appeals, granting exceptions when necessary, modifying details in the interest of fair play. Any person who believes that his property has been put in a wrong class is thus given an opportunity to present his grievance. He may appear before the board of appeals at any time and state his case. It is unnecessary for him to go to the courts—at least until the board of appeals has passed upon the matter. And if at last a formal lawsuit is begun, the courts are likely to look with much greater favor upon a zoning ordinance which recognizes the possibility of injustice, and provides machinery whereby it can be corrected.

The Arguments for Zoning

The most potent argument in favor of use zoning is that it promotes the unified development of every neighborhood. Even in the absence of directive legislation there is a tendency for every section of a city to assume the general character for which it is best fitted by nature or past growth. A low strip of land paralleling a navigable

river or an important railroad is likely to be given over to industry. A district containing a considerable number of factories is apt to draw other factories. The main traffic thoroughfares are fairly sure to become the centers of retail business. Away from the dirt and congestion of business and industry, but connected with the center of town by means of adequate transportation facilities, will be situated the more popular residential neighborhoods. In every city the tendency of industry to group with industry, of business to follow business, and of homes to segregate with homes, is evident. Unfortunately, however, this tendency is not sufficiently strong to prevent the intrusion of factories and stores into neighborhoods of homes, nor to keep objectionable industries out of retail shopping districts. The inevitable result of such invasions is to depreciate property values, and put a stop to normal development. In city after city the story is the same. A delicatessen store, perhaps, finds its way into a neighborhood of homes. It is followed by other stores, a public garage, a filling station. For a time the invaders prosper. They have relatively little competition. But their coming soon blights the district. Home owners hasten to sell their property, taking whatever they can get in their desire to escape to more congenial surroundings. Their residences are occupied by poorer people with less inclination or less money to make needed repairs and keep up appearances. Some homes are torn down to make room for other stores. And after a time even the store owners find their investment no longer profitable. So they abandon to its fate the neighborhood they have ruined, and move further out into the suburbs to repeat their destructive work. For many decades the history of American city growth has been a monotonous series of tragedies—home owners moving further and further out in an effort to escape the dirt, the noise and the ugliness of business, with business always in hot pursuit, and always victorious unless checked by private restrictions. Every city has its blighted neighborhoods, ruined by the filling stations and retail stores which have slipped out of their proper setting. Business

and industry are essential to every great metropolis, but their place is not in a section of homes. It is equally important that good business and industrial sites be protected against haphazard development. Every section is sure to benefit if its essential character is preserved. In many respects zoning is the most vital aspect of city planning. The public property of a city—that portion most directly under the control of the municipal authorities, including the streets, parks, public buildings—constitutes as a rule but thirty or thirty-five per cent of the total area. The remainder is in private hands. It would be a very short-sighted policy to provide for the improvement of the city's streets, the beautification of its park system, the expansion of its transportation facilities, the development of its libraries, and then leave to chance the growth of the private property within its borders.

Many municipal functions can be performed more satisfactorily and at less cost when each neighborhood has a definite character of its own, preserved by zoning. Take street paving, for example. Every street should have the type of paving best suited to its needs. In the warehouse district, where heavy trucks rumble along at slow speeds, durability is the first consideration. In a residential neighborhood a smooth surface is a prime requisite. But what of a street which combines stores, homes and factories, all in a distance of two or three blocks? Obviously no type of paving can be devised to meet its needs exactly. Nor can any system of street lighting be adapted exactly to its requirements. Municipal officials are handicapped, whether in police protection, sanitation, or water supply, when factories, stores and homes are found side by side in indiscriminate confusion.

Height and area zoning can be justified quite as readily. When the law prohibits the erection of buildings so high that they are out of all proportion to the streets on which they face, and so bulky that they steal the light and air from their neighbors, the task of the municipal authorities is greatly simplified, and the living and working conditions of the city's residents are improved. For one thing, the

danger of conflagrations is materially reduced. Excessively tall buildings place a tremendous strain on the resources of the municipal fire department. And after they pass a certain height—eighty or ninety feet, at most—they must rely chiefly on their own resources for the protection of their upper stories against fire. As one fire engineer said recently, "The range of operation of modern fire departments is six or seven stories from the ground. Above this height we are dependent upon inside protection. Many years' experience in the inspection of fire-fighting equipment brings out the fact that this interior protection is rarely kept up to fire department ideas as to what this equipment should be. The matter of outside protection on window openings, whether this protection be in the shape of metal frame and wire glass windows, rolling steel shutters, or the ordinary iron shutters, or an outside water curtain, has also proved faulty. This is so because metal frame and wire glass windows will resist a temperature of only about 1500° Fahr. Temperatures developed within a burning building usually grow to 2200°, at which heat brass fuses." In one serious fire "brass fused and wire glass windows ran like molasses."[5] Most present-day zoning ordinances are unduly lenient as to height. They permit the erection of buildings in excess of the fire safety limit. But at least they put a slight check upon private greed. The sky is no longer the limit.

There is a close relationship between zoning and health. Zoning is the only practical way to obtain an adequate amount of light and air for congested areas, and without light and air health is seriously affected. Every person needs a generous share of sunlight, especially during the winter months, to aid in resisting such diseases as pneumonia and tuberculosis. The doctors are agreed that sunlight is one of the best of disinfectants, and nearly everyone is agreed that adequate sunlight is lacking in the downtown sections of most large cities. The high build-

[5] John Plant, Chief Engineer, Bureau of Fire Prevention and Public Safety, city of Chicago, quoted in Jacob L. Crane, Jr.'s pamphlet, *Building Height Limitations*, pp. 5-6.

ings have shut it off. Moreover, they have reduced materially the available supply of fresh air. "Where high buildings exist, the ventilation of streets is coming to be an important problem. If buildings are high relative to street width, there is likely to be a stagnation of air over the pavement and a concentration of dust, bacteria, foul odors, and automobile smoke, injurious to the health of persons using the streets. . . . In the interest of air purity, therefore," according to an eminent sanitarian, "zoning is justified."[6]

In all probability, zoning will furnish the ultimate solution of the traffic problem. The high building is quite as responsible as the motor car for the congestion which exists today in the downtown sections of all large cities. It draws vast numbers of persons to a comparatively small area—so small an area, in fact, that they cannot even move in comfort upon the sidewalks. Every weekday morning eight hundred thousand men and women travel to their places of business in Manhattan's skyscrapers, and every evening they make their way to their homes in the suburbs. They place a heavy burden on the city's transportation facilities, they waste hours of their precious time on the road between home and work. But conditions are not likely to be very different while the era of the high building continues. It is sometimes argued that the skyscraper does not cause congestion; that on the contrary it tends to relieve the pressure of hurrying crowds. This line of reasoning is based on the obvious fact that high buildings, with their express elevators, substitute vertical transportation for horizontal. "In downtown New York," it is said, "a business man consults his broker, eats his lunch, sees his lawyer, buys his wife a box of candy, gets a shave, all in the same building. At most he walks a few blocks. Most of the time he travels up and down instead of to and fro."[7] The argument is plausible enough, but it overlooks the necessity of getting every man into his sky-

[6] Whipple, Geo. C., "Zoning and Health," published in the February, 1925, *Proceedings of the American Society of Civil Engineers.*

[7] See Harvey W. Corbett's article, "Up with the Skyscraper," in the February, 1927, issue of the *National Municipal Review*, p. 98.

scraper in the morning for the purpose of consulting his broker, eating his lunch and attending to his other duties, and the necessity of getting him home again at night. It is during these peak hours that the congestion becomes well nigh intolerable.[8] Of course, zoning is a long-time remedy for traffic problems. The most it can do for years to come is to prevent the erection of new buildings to excessive heights. But eventually, as present structures become obsolete and new buildings of more moderate height take their place in conformity with zoning regulations, business may be forced to spread over a larger area, and traffic correspondingly diffused.[9]

Arguments Against Zoning

Many arguments against zoning have been advanced. It is often said, for example, that zoning is un-American, and contrary to the spirit of our democratic institutions. America has been built on the doctrine of *laissez-faire;* it has grown great on the spirit of individualism. To hamper that spirit would be to menace the foundations of the nation. Every man should be permitted to treat his own property as he pleases. If he desires to erect a retail store in a neighborhood of homes, he should have the privilege. If his fancy suggests the erection of a forty-story building on a narrow street, no obstacle should be placed in his way. He owns the land, and what he owns he should control. So runs the argument. But the line of reasoning is weak. Not one person in a thousand would be willing to carry it to its logical extreme. Scarcely anyone would be willing to contend that there should be no restrictions on the use of private property. Suppose a man decides to erect a boiler factory in a quiet district of homes? Suppose he goes into the hog-raising business in a fashionable neighborhood? Suppose he constructs an

[8] This point is emphasized in Henry H. Curran's article, "The Skyscraper Does Cause Congestion," published in the *National Municipal Review* for April, 1927.

[9] See Jacob L. Crane, Jr.'s article, "Decentralization—Eventually, But Not Now," in the September, 1927, issue of the *Annals of the American Academy of Political and Social Science.*

office building of such inflammable materials or in such a flimsy manner that he endangers the public safety? The friends of individualism ought to defend his inalienable right to treat his property according to his own desires. But they are not prepared to go so far. They admit that *some* restrictions on private property are necessary in the interest of the general welfare. And once that admission is made, their case is lost. For it is readily demonstrable that zoning regulations promote the welfare of the city and its inhabitants.

It is often said, however, that zoning depreciates property values. Instances are cited of land classed as one- and two-family residential which would bring a considerably larger return if it could be sold for stores or apartments. There is no doubt that such instances could be multiplied by the thousand, for almost any lot in a residential district would be a valuable site for a retail shop or an apartment house, *if zoning regulations were still applied rigorously to all the other lots of the neighborhood.* Under such circumstances the store or apartment would have a monopoly. The first store to make its appearance in a residential district always has a temporary advantage, because for the moment it is relatively free from competition. The first apartment house or the first skyscraper is in a position to steal the light and air of its more modest neighbors. Small wonder, therefore, that almost any property owner in a district zoned for residences could sell his land at a higher figure for business or apartment use. If permitted to do so, he would reap a considerable profit. But his profit would be made at the expense of his fellow residents. His land would appreciate in value far less than theirs would depreciate; his gain would be their loss. The records of every city during the prezoning era bear ample evidence that while the invasion of business and industry into residential neighborhoods may bring temporary profit to a few men, it brings permanent loss to many more. Zoning does not injure property values; it protects them. The only right it denies is the

right of any person to reap a financial harvest at the expense of his fellows.

Zoning is frequently attacked on the ground that it is discriminatory and unfair. Carelessly drafted zoning ordinances, of which there are many, are offered as evidence that city officials are interfering unreasonably with private property. Improper classifications, such as the designation of a strip of land as residential, even though it borders on a railroad and adjoins a factory district, are produced by the score. But such examples do not invalidate the zoning principle. They only indicate that some zoning commissions fail to do their work properly. They merely show the need for greater care in drafting zoning ordinances. They furnish a sound reason for more zoning—of the better kind.

Perhaps the strongest argument against zoning is that it sometimes guarantees to the owner of a non-conforming building a long-time monopoly. Take the case of a single retail store in a neighborhood of homes. When the city's zoning ordinance is framed, the neighborhood is classified as residential—properly so. The one store already built and occupied is permitted to remain, but future stores are excluded. The store's owner thus finds himself in an enviable position. He is protected by law against competition. He receives an advantage to which he is not entitled. But it must be remembered that his advantage is incidental and unavoidable. It is given to him only because there seems to be no other practical way of enforcing zoning regulations.

Attitude of the Courts

Some years ago it was freely said that zoning was unconstitutional. Adverse decisions in a few state courts lent color to this belief. But the more recent trend of court decisions, both federal and state, has been almost wholly favorable, so that those who still oppose zoning on constitutional grounds appear to be fighting a losing battle. The constitutional argument against zoning is based on

the so-called "due process" clauses of federal and state constitutions. The federal constitution provides[10] that no state may "deprive any person of life, liberty, or property, without due process of law," and practically all state constitutions contain the same prohibition, in substantially the same words. Now there is no doubt that zoning deprives persons of their property—that is, it deprives them of the unrestricted use of their property, which amounts to the same thing. Sometimes, in specific instances, it reduces property values. A large lot in the heart of a good residential section may be worth twenty thousand dollars for store purposes, but only half that amount as a home site. When the owner of the lot is told that he must not erect a store, he is likely to reply that such a restriction is depriving him of a portion of his property—ten thousand dollars' worth of it, to be exact. Nor is there any probability of satisfying him with the assurance that property values throughout the entire neighborhood have been protected.

Since zoning deprives persons of their property, it is well to ask whether it does so "without due process of law." Over a long period of years the courts have pointed out that due process includes the idea of *reasonableness.* Property taken by state or city in a *reasonable* manner, and with all the proper formalities, is taken with due process of law. But when the taking of property is arbitrary and unreasonable, then due process is lacking. So the test of the constitutionality of zoning is its reasonableness. Whether it is reasonable is a question for the courts to decide—a question they are deciding in cases brought before them every year.

In the early days of zoning, there was some doubt as to the proper procedure. Two suggestions were made. One was that zoning regulations should be enacted under the power of eminent domain. The other was that cities should zone under their police power—the power to make reasonable regulations for the health, safety, morals and general welfare of their people. At first thought the dis-

[10] Fourteenth Amendment, Sec. 1.

tinction may not seem especially significant, but actually it is of the greatest importance. For when property is taken under the power of eminent domain, compensation must be paid, while under the police power no compensation is necessary. Imagine, if you can, a zoning ordinance dividing an entire city into use, height and area districts, and then providing for the payment of hundreds or even thousands of dollars to every property owner for the privilege of telling him that he may not use his land in a manner injurious to the public interest! The cost of zoning would be prohibitive. Yet when some early court decisions led the city officials of Minneapolis to fear that comprehensive zoning under the police power might not be upheld, they turned to eminent domain, and provided for condemnation proceedings in the usual manner. But early court hostility has disappeared—in Minnesota as in most other states. Today it is generally agreed that eminent domain ought not to be related to zoning; it is too expensive and too cumbersome. Zoning regulations are reasonable enactments for the safety, health, and general welfare of the people. As such, they are justified under the police power.[11]

The courts are virtually unanimous in upholding most aspects of zoning. Height regulations, for example, are sustained in every state unless they are clearly arbitrary. Area restrictions, if obviously designed to insure adequate light and air, are generally regarded with favor. Even in the still disputed field of use zoning most courts have adopted a liberal attitude. They always approve the segregation of trades which might be classed as nuisances because of their noise, dust, fumes or vibration. But what of apartment houses in one- and two-family residence districts? What of retail stores which occasion no unpleasant odors or sounds, though they depreciate property values and make home neighborhoods less attractive? Can they

11 Since the powers of a city are strictly limited, the courts usually hold that it must receive from the state legislature express authority to zone. Its own police power, narrowly restricted by court decisions, is not generally regarded as sufficient. Home rule cities, however, are in a somewhat more fortunate position.

be prohibited on the ground that they are a menace to the health, safety, morals or welfare of the people?

The general attitude of the courts with regard to the segregation of apartment houses was well expressed by the Supreme Court of the United States in 1926. "It is pointed out," said the Court, "that the development of detached house sections is greatly retarded by the coming of apartment houses, which has sometimes resulted in destroying the entire section for private house purposes; that in such sections very often the apartment house is a mere parasite, constructed in order to take advantage of the open spaces and attractive surroundings created by the residential character of the district. Moreover, the coming of one apartment house is followed by others, interfering by their height and bulk with the free circulation of air and monopolizing the rays of the sun which otherwise would fall upon the smaller homes, and bringing, as their necessary accompaniments, the disturbing noises incident to increased traffic and business, and the occupation, by means of moving and parked automobiles, of larger portions of the streets, thus detracting from their safety and depriving children of the privilege of quiet and open spaces for play, enjoyed by those in more favored localities—until, finally, the residential character of the neighborhood and its desirability as a place of detached residences are utterly destroyed. Under these circumstances, apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances." [12]

The exclusion of stores from residential neighborhoods is also regarded with favor by most courts. As the Justices of the Supreme Court of Massachusetts pointed out in a 1920 advisory opinion: "The suppression and prevention of disorder, the extinguishment of fires, and the enforcement of regulations for street traffic, and other ordinances designed primarily to promote the general welfare, may be facilitated by the establishment of zones or districts for business as distinguished from residence." [13] This

[12] Village of Euclid *v.* Ambler Realty Co., 272 U. S. 365.
[13] Opinion of the Justices, 127 N. E. R. 525.

opinion deserves more than passing comment. Stores may be ruled out of neighborhoods of homes—not, as might be supposed, because they are unsightly, not because they destroy natural beauty, not because they cause serious injury to property values, but because they interfere with public safety and hamper street traffic regulations! Such a statement savors of insincerity, for everyone knows that the primary purposes of a city in excluding stores from its residential districts are to protect property values and promote civic beautification, rather than to prevent disorder. But the courts in virtually every state seem to consider evasion necessary. They have always held that esthetics were beyond the scope of the police power, and that no state or city might regulate private property solely in the interest of beauty. They have uniformly ruled that while unpleasant sounds and smells might be declared nuisances and legislated out of existence, yet unpleasant sights might not be subjected to similar treatment. Today, faced with the necessity of passing upon zoning regulations which obviously bear a close relation to city beautification, most courts solve their dilemma by upholding the regulations, but finding in them some connection with health, morals, safety or welfare.

In a few states the courts have steadfastly refused to look upon retail stores in residential districts as a menace to the health, safety or morals of the people and therefore have declared unconstitutional laws prohibiting them.[14] For several years the New Jersey courts consistently took this atitude,[15] and as a result the people of the state amended their constitution in the fall of 1927 to provide for comprehensive zoning. The courts of Texas [16] and Missouri [17] were at first inclined to regard zoning with disfavor, but recently their viewpoint has changed.[18]

[14] See, for example, Smith *v.* Atlanta, 132 S. E. 66.

[15] See State *ex rel.* Ignaciunas *v.* Risley, 98 N. J. L. 712, 121 Atl. 783 (1923).

[16] Spann *v.* Dallas, 111 Texas 350, 235 S. W. 513.

[17] State *ex rel.* Penrose Investment Co. v. McKelvey, 301 Mo. 1, 256 S. W. 474.

[18] Wichita Falls *v.* Continental Oil Co., 5 S. W. (2nd) 561; State *ex rel.* Oliver Cadillac Co. *v.* Christopher, Building Inspector of St. Louis, 298 S. W. 720.

The Supreme Court of the United States put the stamp of its approval upon the principle of zoning in the Euclid case,[19] decided November 22, 1926. Said the court: "The matter of zoning has received much attention at the hands of commissions and experts, and the results of their investigations have been set forth in comprehensive reports. These reports, which bear every evidence of painstaking consideration, concur in the view that the segregation of residential, business and industrial buildings will make it easier to provide fire apparatus suitable for the character and intensity of the development in each section; that it will increase the safety and security of home life; greatly tend to prevent street accidents, especially to children, by reducing the traffic and resulting confusion in residential sections; decrease noise and other conditions which produce or intensify nervous disorders; preserve a more favorable environment in which to reach children, etc." Of course, the words of the Supreme Court of the United States settle the matter only with regard to the federal constitution. Zoning laws may at any time be declared unconstitutional by state courts as violating state constitutional provisions. But nearly everywhere the state courts are adopting a liberal attitude, and upholding reasonable zoning regulations.

It must not be assumed, however, that the courts approve *every* zoning ordinance presented for their consideration. On the contrary, they frequently find it necessary to declare zoning legislation unconstitutional—sometimes because a city lacks specific authorization from the state legislature, sometimes because adequate safeguards against arbitrary action are omitted, but most commonly because certain zoning regulations are clearly arbitrary and unreasonable, bearing no relation to the public welfare. In the case of Brown *v.* Board of Appeals of Springfield,[20] for example, the Supreme Court of Illinois nullified a clause of the city zoning ordinance which prescribed a minimum

[19] 272 U. S. 365.

[20] 159 N. E. 225. See, also, the recent decision of the U. S. Supreme Court, in the case of Nectow *v.* Cambridge, 277 U. S. 183.

height limitation of forty feet for all buildings to be erected in a business zone. The court could see no reasonable relationship between a minimum building height and the health, safety, morals or welfare of the people. Nor could the Supreme Court of the United States discover anything reasonable in a New Orleans ordinance which divided the city into zones on the basis of race, and prohibited negroes from living in white "zones" or neighborhoods without the written consent of the white residents.[21] The very essence of zoning is its reasonableness; without that it violates both federal and state constitutions.

Billboards

There is one form of private property—billboards—generally regarded with disfavor by American cities, and subjected to especially stringent regulations. In residential neighborhoods, especially, billboards have usually been regarded as eyesores, destroying natural beauty and making home surroundings less attractive. Other objections to billboards have also been raised—the frailty of their construction, causing them to be a menace to passers-by; their inflammability, making then a fire hazard; their occasional location at street intersections or at dangerous curves of the road, thus increasing the likelihood of accidents. But most of the popular agitation against them has resulted from their unsightliness.

The early attempts of cities to regulate billboards were largely unsuccessful. When the Boston park commissioners forbade the erection of business signs so near a parkway as to be plainly visible to persons travelling upon the parkway, the regulation was nullified by the supreme court of the state.[22] A few years later the New Jersey supreme court voided a law prohibiting advertisements upon the palisades of the Hudson River.[23] Even city ordinances which might well have been accepted as safety regulations were declared unconstitutional. In New York,

[21] Harmon *v.* Tyler, 273 U. S. 668 (1927).
[22] Commonwealth *v.* Boston Advertising Co., 188 Mass. 348 (1905).
[23] State *v.* Lamb (N. J.), 98 Atl. 459 (1916).

for example, the courts set aside an ordinance limiting to nine feet the height of signs erected above buildings or walls.[24]

Not until 1911 was there much reason to think that the courts might be persuaded to adopt a more liberal attitude, but in that year came the important decision of the Missouri supreme court in the case of St. Louis Gunning Advertising Company *v.* St. Louis.[25] The city ordinance in question was unusually stringent. It limited the height of billboards to fourteen feet and their area to five hundred square feet; it prohibited their erection within fifteen feet of the street line, within six feet of any building, or within two feet of one another; and it specified a clearance of at least four feet between their lower edges and the ground. To justify all these restrictions as essential to the health, safety, morals and welfare of the people might seem difficult, but the court managed to do so. Billboards, it pointed out, might be constructed in an unstable manner and thus menace the public safety. They might provide hiding places for criminals. They might hamper the work of firemen; in addition, the inflammable rubbish piled up behind them might cause conflagrations. They might injure public morals, not only by displaying immoral advertisements, but by sheltering immoral acts. It is not easy to understand how the court expected some portions of the St. Louis ordinance—the limitation on billboard area, for example—to preserve health, safety or morals. But evidently it was determined to extend the scope of municipal authority, and framed its arguments accordingly.

Shortly afterward Chicago went a step further by prohibiting the erection of billboards in residential neighborhoods except with the consent of the owners of nearby property. The ordinance was upheld by the Illinois courts, and later by the Supreme Court of the United States, in the case of Thomas Cusack Company *v.* City of Chicago.[26] The United States Supreme Court found the

[24] People *ex rel.* Wineburgh *v.* Murphy, 195 N. Y. 126 (1909).
[25] 235 Mo. 99 (1911).
[26] 242 U. S. 526 (1917).

restriction justified on the ground that residence districts, though frequented by unprotected women and children, do not usually have so full police and fire protection as other sections, nor so adequate lighting. It is safe to say, therefore, that within reasonable limits any city of the United States is free to regulate billboards virtually as it pleases. It may even prohibit them entirely from districts of homes, "in the interest of the public safety, morality, health and decency of the community."[27] This exclusion from residential neighborhoods may be written into the zoning ordinance, and may be based on the indisputable fact that billboards are not residential structures. But a city must take care not to avow openly that one of the purposes of billboard regulation is civic beautification. For most American judges are not yet ready to accept the significant statement of the Minnesota supreme court, made a decade ago: "It is time that courts recognize the esthetic as a factor in life."[28]

SELECTED REFERENCES

Bassett, E. M., *Zoning Practice in the New York Region,* New York, 1925.

Bassett, E. M. and Williams, F. B., *Zoning Cases in the United States,* New York, 1928.

Knowles, Morris, *City Planning and Zoning,* Pittsburgh, 1924.

McBain, H. L., *American City Progress and the Law,* New York, 1918, Chaps. III and IV.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XXVI.

Swan, Herbert, *The Law of Zoning,* New York, 1921.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XII.

U. S. Department of Commerce, *Municipal Zoning Ordinances,* Washington, 1924.

—— *Standard State Zoning Enabling Act,* Washington, 1924.

Veiller, Lawrence, *Mistakes to Be Avoided in Zoning,* Detroit, 1923.

Werner, Helen M., *The Constitutionality of Zoning Regulations,* Urbana, 1926.

[27] Cusack Co. *v.* Chicago, 242 U. S. 526 (1917).

[28] State *ex rel.* Twin City Building Co. *v.* Houghton, 176 N. W. 189 (1920). An excellent discussion of municipal regulation of billboards is found in Chap. III of Howard Lee McBain's *American City Progress and the Law.*

Whipple, G. C. and others, *Factors in the Zoning of Cities,* Proceedings of the American Society of Civil Engineers, 1925.

Williams, Frank B., *The Law of City Planning and Zoning,* New York, 1922.

Baker, Newman F., "The Constitutionality of Zoning Laws," *Illinois Law Review,* November, 1925.

Corbett, H. W., "Up with the Skyscraper," *National Municipal Review,* February, 1927.

Crane, Jacob L. Jr., "Decentralization—Eventually, But Not Now," *Annals of the American Academy of Political and Social Science,* September, 1927.

Curran, H. H., "The Skyscraper Does Cause Congestion," *National Municipal Review,* April, 1927.

Digges, I. W., "The Refinement of Outdoor Advertising," *National Municipal Review,* October, 1925.

Herrick, C., "Has Zoning Failed?" *National Municipal Review,* June, 1928.

James, Harlean, "Billboards and the Motorist," *National Municipal Review,* July, 1924.

MacLaurin, R. D., "Where Zoning Fails," *National Municipal Review,* May, 1928.

Newcomber, Mabel, "Taxation of Billboards," *National Municipal Review,* July, 1924.

Weisman, H. L., "Zoning Administration in New York City," *St. John's Law Review,* May, 1928.

CHAPTER XXII

STREETS AND STREET LIGHTING

Streets

The streets of a city are of primary importance. To a considerable extent they determine the direction and character of its development. They are the rivers of present-day urban trade; over their surface flows an ever increasing volume of vehicular and pedestrian traffic. Below their surface are laid mains and pipes of every description —for water, gas, sewage. Electric wires may be strung on poles above ground, or carried in conduits below. Under the principal thoroughfares may be those giant tubes—the subways. The streets are not only traffic arteries; they are a means of supplying light and air to the city's homes, stores and factories. Often they become playgrounds for the city's children. Their appearance —the manner in which they have been laid out, and the way in which they are paved, cleaned and lighted—may make the city a thing of beauty or quite the reverse.

Street Width

One of the first and most important things to be determined with regard to any street is its proper width. Some years ago it was considered highly desirable to make every street exactly the same width, or perhaps to vary the monotony of this procedure by requiring every fifth or every tenth street to be considerably wider than the others. Apparently no one stopped to consider that every street had its own problems and its own needs. Yet a moment's reflection is sufficient to make clear the absurdity of fixing all street widths in the same rigid mold. Some streets are obviously destined to become great thoroughfares;

they connect directly with the principal state highways leading to other cities. Others are equally certain to remain of minor importance, bearing but a small share of the city's traffic, for they lead from nowhere to nowhere—perhaps from dead end to dead end. Some streets pass through retail shopping districts, where motor cars follow one another in endless succession and pedestrians elbow their way along crowded sidewalks. Others serve residential neighborhoods, where motor cars and pedestrians are relatively scarce. It is just as senseless to make every street the same width, regardless of its character, as to make every building the same height and depth, whatever the purpose for which it is designed. During the last decade the city planning movement has brought about an intelligent consideration of street widths. Planning commissions have classified streets, and have commonly labeled proposed new streets according to the amount and nature of their probable future traffic and the character of the neighborhoods they are to serve. Their widths have then been fixed accordingly.

In many cities, especially the older cities of the East, the streets of the downtown business districts are entirely too narrow to carry the burden of present-day traffic. Occasional street widenings do little more than emphasize the futility of trying to solve the traffic problem by means of an extensive street widening campaign. The cost of adding ten or twenty feet to the width of long thoroughfares flanked by massive buildings is prohibitive. It is customary to blame excessively narrow streets on the shortsightedness of the men who first laid out our cities, but the entire responsibility cannot be laid at their door. Equally at fault are those who erect tall buildings on streets designed for structures of moderate size. Generally speaking, a street is wide or narrow only in relation to the buildings it serves. Yet when building height and street width get out of proportion, we commonly say that the street is too narrow—not that the building is too high. Many of our traffic troubles are due to the fact that we

are putting "twenty story buildings on ten story streets."[1] Height zoning is a recognition of this fact.

Many cities, in their desire to escape from the evils of too narrow streets, have gone to the other extreme. Their allotments for street space are unduly generous. Every important thoroughfare is laid out on a grandiose scale, and even insignificant side streets are given boulevard proportions. The men responsible for this type of planning congratulate themselves on their foresight. They point with pride to street plans designed for the long distant future. But they overlook the obvious fact that most of a city's streets can never become main traffic arteries, and that in all but a few instances the space for which they provide will be largely wasted. Urban land is too valuable to be dedicated for street use in larger quantities than necessary. Street paving costs too much to be fixed upon the taxpayers without reason. Moreover, when streets become too wide they actually serve to hamper the movement of traffic, rather than to facilitate it. There is a point of diminishing returns in street width, as in most other matters. Detroit is now busily engaged in building "super-highways," two hundred feet in width. It is likely to find them far less satisfactory than streets half as wide, but placed at more frequent intervals.

Half a century ago it was customary to use arbitrary figures in fixing street widths, but today it is the almost universal practice to measure width in terms of traffic lanes. Ten feet is normally required for each line of vehicles. The average street in a residential suburb, where traffic is light, requires a width of thirty feet from curb to curb, so that two moving vehicles may pass each other, even though they happen to meet at a point where a third vehicle is parked. If the business district is nearby, or there is a certain amount of through traffic, forty feet is the desirable width, so as to give parking space on both

[1] This phrase is borrowed from Thomas Adams, but the same thought has been expressed in hundreds of different ways by other city planners.

sides of the street and still leave two lanes for moving traffic. Of course, automobiles require less free space when parked than when in motion, so it is possible to cut down the forty foot requirement, and provide four traffic lanes in a thirty-six foot street. The minimum width for any city street, however little the street may be used or however small the city, should be eighteen feet. And under any conditions eighteen foot streets are apt to prove a poor investment. In the wholesale business districts it is necessary to allow sixteen feet of parking space on either side of a street, because trucks back up to the curb to load and unload. Add twenty feet for two lanes of moving traffic, and you have a minimum width of fifty-two feet. If a street has a car line, additional space must be provided—ten feet for a single track, and sixteen feet if the track is double.[2]

Then there is the matter of sidewalk width. Some cities still follow the simple plan of devoting exactly two-fifths of the total street space to sidewalks, regardless of the character of the neighborhood or the type of traffic. But in recent years it has become increasingly evident that sidewalk space is much more important in some neighborhoods than others. In the wholesale district, for example, there are few pedestrians; in the downtown shopping center there are many. It is only common sense, therefore, to say that the relationship between pedestrian and vehicle space should be determined by the ratio of pedestrians to vehicles. Two feet of sidewalk are commonly allowed for every pedestrian traffic lane.

Street Paving

The usefulness of a street depends to a considerable extent upon the manner in which it is paved. A potentially important traffic artery may be consistently avoided by motorists because it is paved with materials which make it rough and noisy. A heavily traveled thoroughfare may be in almost constant need of repairs, to the annoyance of

[2] Agg, Thos. R., *The Construction of Roads and Pavements*, 3rd ed., pp. 390-2.

the motoring public, because its paving is not designed to stand the strain of constant traffic. So it becomes a matter of the utmost importance to choose for each street the type of paving best suited to its needs. As a rule, the chief of the bureau of highways or the city engineer does the selecting, but the charters of many cities—perhaps one-fifth of all the cities in the United States—still authorize abutting property owners to make the final decision. This practice is especially common in municipalities which pay for street paving by means of special assessments. The argument is advanced that since the property owners are paying for the street in whole or in part, they should have the right to say how their money is to be spent. It is assumed, of course, that they are qualified to settle the question. As a matter of fact, they are not. They select a certain type of paving material because it looks well, because it is cheap, because it is advocated by smooth-tongued salesmen, but scarcely ever because it is best adapted to the street's traffic conditions. Only technical experts can say with assurance what kinds of paving materials are best, and the decision should rest with them. Within the last decade a number of cities have joined the majority by amending their charters so as to take control of street paving entirely out of the hands of abutting property owners, and in all probability their example will be widely followed.

The typical city pavement consists of three principal sections or layers—subgrade, base and wearing surface. The subgrade is merely the natural earth foundation on which the remainder of the pavement is laid. The proper level may be obtained by excavating or by filling, according to the circumstances. In either case, this foundation must be specially treated in order to make it capable of meeting the demands of modern traffic. First it must be smoothed and rolled. Then it must be supplied with a more or less elaborate drainage system. This is necessary because a saturated roadbed is yielding and soft, and furnishes such inadequate support that the road surface soon loses its stability. It is no easy task to keep the sub-

grade dry, especially in humid climates. Properly constructed drains will draw off most of the storm water in a comparatively short time, but a certain amount of moisture almost always remains in the soil, held there by capillary action. Even after a long period of dry weather the subgrade of a pavement may still be moist, and during the months of rain and snow it may absorb so much water that its supporting power is materially reduced. Successful road building is dependent in large measure upon successful subgrade drainage. Gravelly and sandy soils can be drained with comparative ease, because they are so porous, but soils of clay and loam present a more difficult problem.

Upon the subgrade it is customary to place an artificial base, which supports directly the wearing surface of the pavement. The thickness of this base varies from a minimum of three inches to a maximum of twelve inches, according to the nature of the subgrade, the amount and character of expected traffic and the type of paving material used for the wearing surface. Portland cement-concrete makes a good base for virtually every kind of city pavement, and is used much more widely than any other substance. The cement is mixed with sand, pebbles and crushed stone, in carefully predetermined proportions, and after a certain quantity of water has been added the concrete is deposited on the roadway. It must then be shaped, and its surface smoothed. Some cities use a foundation known as "black base," which is really asphaltic concrete. It differs from Portland cement-concrete in that the sand, pebbles and crushed stone—the aggregates, as they are called—are held together by bituminous cement. In the past macadam was often used as a pavement base, but it is generally considered inadequate to the needs of heavy traffic. Sometimes, when a new pavement is laid, the old pavement—perhaps of macadam or brick—is used as a base. Though this practice eliminates the necessity of constructing a new base, it may prove to be false economy unless the old pavement is in reasonably good condi-

tion. For it is a maxim of highway construction that a road is only as good as its base.

Upon the base is commonly placed the wearing surface—the pavement layer directly exposed to traffic. This layer may be composed of sheet asphalt, macadam, brick or any one of a half dozen other materials regularly used in American cities. There is, of course, no ideal wearing surface suited to the needs of every street. In the warehouse district the pavement must be very durable if it is to stand the constant strain of heavy trucks. Lack of noise is a minor consideration. But in the vicinity of a hospital a quiet pavement is absolutely essential. Durability, though desirable, becomes a matter of secondary importance.

It is easy enough to say what qualities a pavement should have. It should be smooth, but not slippery, durable, but cheap in upkeep as well as in first cost, quiet, relatively free from dust, easy to clean and repair, and attractive in appearance. Of course, these characteristics are to some extent conflicting. A smooth pavement is apt to be slippery; a durable pavement is fairly certain to be expensive. So every time a street is paved it becomes necessary to determine what qualities are most desired, and what pavement best combines them. Slipperiness must be prevented on steep hills; ugliness must be avoided in residential suburbs. A poor city may be forced to adopt cheaper pavements than its wealthy neighbors. Other factors being approximately equal, preference should be given to local paving materials. In this way large savings can often be effected. To use a single illustration, Ohio cities find it profitable to use brick paving rather extensively, because Ohio is the center of the shale paving brick industry.

Some of the lightly traveled roads, especially in the outlying suburbs of small cities, are still paved with gravel. The gravel is placed directly on the subgrade, without the use of an artificial base. Until vehicles become numerous it makes a fairly satisfactory road, cheaply constructed, attractive, and sufficiently durable. But it requires con-

stant attention, is nearly always dusty, and cannot stand the burden of urban traffic. Properly speaking, it can scarcely be included in the list of city pavements.

Macadam pavements are less widely used today than in former years, but they still have a considerable measure of popularity. Macadam is simply a number of layers of broken stone, placed upon a subgrade prepared in the usual manner. Some substance must be used to hold the pieces of stone together, and provide a smooth surface. In the older types of construction this substance was a combination of stone dust and water, and the resulting pavement was therefore known as water-bound macadam. But water-bound pavements soon crumbled to pieces under the incessant pounding of heavy traffic, and so various bituminous substances—chiefly tar and asphaltic cement—have more recently been used to bind together the pieces of broken stone. The bituminous binder is heated until it reaches a fluid state, and then applied under pressure to the road surface. Bituminous macadam pavements are reasonably satisfactory for districts where traffic is light. They cost relatively little to build, and their freedom from noise and slipperiness are important assets. But they are less attractive than many other pavements, more easily rutted, and more frequently in need of repair. They cannot stand the constant strain of carrying heavy trucks.

Stone blocks still have an important place among city pavements. The earliest pavements were chiefly of cobblestone, but cobblestones have now virtually disappeared from American cities, though still widely used in some parts of Europe. Present-day stone paving blocks are made of granite for the most part, though sandstone, trap, and even quartzite have sometimes been used. A granite block pavement is very durable, even under heavy loads, and for that reason it is especially adapted to the needs of dock and warehouse districts. The blocks require a thick Portland cement-concrete foundation—at least eight or nine inches, if satisfactory results are to be obtained. As a rule, a thin cushion—or bedding course, as it is technically known—of sand or lean mortar is laid between the

base and the blocks. After the blocks have been put in place, the small spaces between them are filled with sand, pitch, or a cement mixture. Pavements of this type are rough, noisy and unattractive, and they have a tendency to become slippery as the upper surfaces of the blocks are rounded and polished by the constant passing of heavily loaded vehicles. Their durability is so great, however, that no other kind of pavement can successfully compete with them in heavy trucking districts.

Wood blocks have been used in the United States as a street paving material for nearly half a century. At first they were merely sawed from round logs, and laid as closely as possible. No preservative was used. In more recent years, however, they have been cut to uniform size, and specially treated to prevent swelling and rotting. The best preservative seems to be creosote oil, a mixture of pure creosote and tar. Like granite blocks, wood blocks require a bedding course of sand or lean mortar on top of the concrete base. They are laid in this cushion, and then a filler —usually bituminous—is added. Wood block pavements are relatively expensive and excessively slippery. They cannot safely be used for grades in excess of four per cent. Unless constructed with great care, the blocks absorb water and swell, causing surface bulges or ruptures. But properly built wood block pavements are quite durable, and not in constant need of repairs. They are also smooth and quiet, and therefore frequently used near hospitals and other places where freedom from noise is essential. For most other purposes they have lost a great deal of their early popularity.

Bricks have long been listed among the more popular paving materials in American cities. They are laid in much the same manner as granite and wood blocks—a Portland cement-concrete base, a thin layer of sand or mortar, and a filler of some kind, usually a bituminous material. After they have been put in place, uneven spots are smoothed out with a five- or six-ton roller, and the filler is worked into the joints. Macadam is sometimes used as a base, but it usually produces less satisfactory results.

All factors considered, brick pavements deserve a rather high rating. Their first cost is not excessive, and they can be repaired easily and cheaply. Properly constructed, they are durable, and reasonably smooth without being slippery. In fact, they provide so good a traction for rubber-tired vehicles that many cities use them almost exclusively on steep grades. But they do not present so pleasing an appearance as some other pavements, and they are somewhat noisy.

For a number of years sheet asphalt has been increasing in popularity, and today it is very widely used in American cities. A sheet asphalt pavement consists of four separate layers—the subgrade, the base, a so-called binder course, and the wearing surface. The base is constructed in the usual manner—of Portland cement-concrete, or less commonly of black base or water-bound macadam. Formerly the wearing surface—an asphalt preparation—was applied directly to this foundation, but it had a tendency to become uneven. So now the intermediate or binder course is added. It consists of a layer of asphaltic concrete, from one to two inches in thickness. The asphalt mixture used for the wearing surface is a combination of sand, rock dust and bituminous cement, mixed at a high temperature. It is shoveled into place, thoroughly broken up with rakes, spread to the proper thickness and then rolled while still hot. Sheet asphalt pavements are smooth, sanitary and easily cleaned. Though rather expensive to construct, they are quite durable. They are attractive, and comparatively free from noise. Their most serious defect is that they become very slippery when wet. In some cities, asphalt blocks are used instead of sheet asphalt. The blocks cost slightly more, and are a little less smooth. But they last longer, and provide a better traction for automobiles in wet weather. Asphaltic concrete, now used in many cities, is also less slippery than sheet asphalt, of which it is a variant.

About two decades ago highway engineers first began to experiment with Portland cement-concrete as a wearing surface. So successful have been their experiments that

concrete is rapidly becoming the standard surface material on main rural highways, and bids fair to displace macadam on lightly traveled city streets. The average concrete pavement has only two layers—a subgrade and a course of concrete which serves in the dual capacity of base and wearing surface. Sometimes, however, there is a separate base, made of a slightly different grade of concrete from the wearing surface. Often the concrete is reinforced by bars or a fabric of steel. Concrete pavements are cheap, attractive, except for the glare which they produce, smooth, easily cleaned, and very durable unless exposed to the pounding of heavy traffic. Concrete is markedly affected by weather conditions. On hot, rainy days it has a tendency to expand; when the weather is dry and cold it is likely to contract. As a result, it cracks rather easily. To reduce the number of ragged, unsightly cracks, concrete pavements in cities are commonly built with so-called expansion and contraction joints, placed transversely in the concrete at intervals of from thirty to one hundred feet. Sometimes longitudinal joints are also used, which serve not only to minimize the evil effects of irregular longitudinal cracks, but also to mark traffic lanes.

A number of other substances are used more or less extensively as paving materials in the cities of the United States. Some of them are patented, and royalties must therefore be paid if they are adopted. In the past, patented paving materials have often provided dishonest municipal officials with an easy means of growing rich at public expense, and even today questionable practices are sometimes discovered. When a new pavement is to be laid, the specifications may call for a certain type of patented material. The owner of the patent is then free to fix his price as high as he pleases, for even though the charter calls for open competitive bidding he knows full well that no one else can meet requirements. Of course, if he understands that he must share his profit with the politicians who wrote the specifications, he is quite certain to charge accordingly.

As a rule, American cities do not go directly into the

street paving business. Instead of using their own men and materials, they rely on private contractors. Careful inspection of the contractors' work therefore becomes a matter of the first importance. Unfortunately, in many cities it is not given the emphasis it deserves. Inspectors are frequently chosen for political reasons, rather than for anything they may know about street paving. Usually their salaries are inadequate, so that if some contractor offers to pay them well for keeping their eyes closed they may be strongly tempted. Many a municipal inspector's name has been found on the payroll of the paving contractor whose work he was supposed to inspect. During the last few years, however, there has been increasing recognition of the necessity of adequate inspection. Today political considerations less frequently dictate the choice of inspectors, and public opinion is less inclined to tolerate their corruption. Inspection should be a continuous process. The contractor's materials and the manner in which he uses them should be examined during every stage of construction, and not merely when the pavement is completed. In order to facilitate this inspectional work, the larger cities should have their own testing laboratories.

Corporation Cuts

One of the most perplexing problems of the street department is how to prevent the street surface from being injured by constant excavating. No sooner is a pavement laid than some abutting property owner decides to have service connections installed for gas or electricity. Perhaps one of the utilities discovers that its mains are leaking badly. So a cut must be made in the paving to make the connection or repair the leak. After a short time, unless a proper patch is made, the result is apt to be a rough spot in the road surface, and in any event an unsightly patch is not welcome. The temporary inconvenience to traffic is considerable, but this is usually a less serious matter than the destruction of the pavement. In order to reduce to a minimum the number of such excavations—corporation cuts, as they are usually called—cities com-

monly stipulate that no cut may be made without a permit. Then, if the work of excavating and repairing is done by the utility's forces, a city inspector is on hand to make certain that the pavement is restored to its original condition as nearly as possible. A great many cities prefer to entrust the task to their own employees. One common way of reducing the number of cuts is to notify all the utilities sixty or ninety days in advance when a new pavement is to be laid. This notice enables them to inspect their pipes, mains and conduits beforehand, and make needed repairs. A few cities have even gone so far as to provide that no pavement may be cut during the first two or three years of its life. But such a policy has generally been found unsatisfactory, for no legislative fiat can keep pipes from leaking or mains from bursting.

Street Name Signs

Street name signs deserve more attention than they usually receive. The average city still uses the type of sign which it inherited from horse and buggy days—the same size, the same color, the same location. Sometimes even the same signs remain, though made almost illegible by the passing of time and the action of the elements. In other instances the street name signs of yesterday have disappeared, and no new signs have taken their places. Yet a moment's reflection should make clear that inadequate signs, or no signs at all, contribute to traffic congestion and delay, and occasion serious inconvenience to motorists and pedestrians. At every corner the names of the intersecting streets should be prominently displayed. Letters should be of sufficient size to make them clearly visible one hundred yards away, so that he who rides may read.[3]

A few words should be added at this point concerning the organization of the street department. During a con-

[3] Four-inch letters, if properly spaced and used with the proper color combination, are plainly visible to the average eye at three hundred feet. Gold letters on a mat of dull black give most satisfactory results. See *Street Name Signs*, by Adolph J. Post and George H. McCaffrey, publication No. 8 of the Municipal Administration Service.

siderable portion of the nineteenth century "the mayor appointed a street commissioner who supervised the maintenance of the streets, employing for the work laborers recommended by the various aldermen. Sometimes it was good labor, and at other times not so good. When projects required accurate grades or levels, a surveyor was employed. He and his assistant drove a number of little stakes with curious characters marked thereon. The commissioner tried to conform to the lines and levels so established, and succeeded more or less, depending upon his aptitude at deciphering puzzles. For he seldom comprehended the significance of the survey stakes, although he may have had some hazy idea as to the general scheme."[4] The growth of cities and the coming of the automobile have made necessary the abandonment of such slipshod practices. Political influences still dominate paving work in some instances, but there is an increasing recognition of the importance of the expert. In the larger cities the bureau of streets is commonly a part of the department of public works, which also handles such matters as sanitation, lighting and water supply. The average small urban community has a less formal organization; it puts all its engineering problems under the direct control of the city engineer.

Street Lighting

Street lighting deserves much more attention than it commonly receives, for it accomplishes a number of very important purposes. Primarily it enables men and women to make their way about the city's streets at night in comparative comfort, without fear of stumbling over obstructions or falling into holes. It permits them to distinguish acquaintance from stranger, friend from foe. But it does far more than that. For one thing, it is an important factor in crime reduction. The criminal loves darkness. He approaches his victims from the shadows, and into the shadows he makes his escape. He works chiefly at night, because detection is many times more difficult during the

[4] Agg, Thos. R. and Brindley, John E., *Highway Administration and Finance*, pp. 251-2.

night hours. As streets become better lighted, crime waves are fairly certain to recede. A few years ago Cleveland installed a high-intensity lighting system in the busiest portion of its downtown district. The result was an actual reduction of crime in the White Way area, during a period when crimes of every description were increasing rapidly in every other section of the city.[5] Adequate lighting is also an effective way of speeding up traffic and reducing accidents. A careful survey made some time ago, covering thirty-two cities, revealed that one death in every six from night automobile accidents could be attributed directly to lack of sufficient public illumination. In how many other cases poor lighting was a contributing factor could not even be estimated. It would probably not be far from the truth to say that inadequate illumination is to blame, at least in part, for half of the traffic accidents which occur on city streets at night. Moreover, a great many municipalities have come to the conclusion that good lighting in the principal downtown district is a sound business investment. From Maine to California, in struggling towns and booming cities, are small-scale reproductions of Manhattan's Great White Way. But as a rule the end of the White Way district marks the end of adequate street illumination. Other neighborhoods are left in semi-darkness, on the theory that proper lighting is too expensive.

From Candles to Electricity

Until the beginning of the nineteenth century, tallow candles and oil lanterns furnished the only practicable means of street lighting. But shortly after 1800 gas came into vogue, and held undisputed sway until about fifty years ago. Then in 1879 came the electric light, and with it a new era in public and private illumination. Electricity rapidly displaced gas in city after city, and today it bids fair to become virtually the universal street illuminant. Yet gas is not inherently so inferior to electricity for street lighting purposes. It can be made to meet almost any

[5] Harrison, Ward, "Illumination and Traffic Accidents," in the 1921 *Proceedings of the Illuminating Engineering Society.*

street lighting need, and is actually cheaper in cities which are situated near natural gas or oil wells. The cost of street gas lighting would be still lower if it were practicable to turn the lamps on and off from a central point, instead of paying a regiment of lamp lighters to do the work by hand. But no satisfactory device has yet been perfected, despite many years of experimentation. Though the objections to gas are not very serious, the public has shown unmistakably that it prefers electricity. In most cities the only gas lamps still in use are found in the older residential districts, and as they wear out their place will doubtless be taken by electric lights. We are justified, therefore, in devoting our attention entirely to electric lighting.

At the present time there are just two kinds of electric lights used for street illumination. One is the luminous or magnetite arc lamp; the other is the increasingly popular incandescent lamp. The early arc lamps, with arcs made of carbon, were crude affairs. Most of their light was wasted, and they were very unreliable. Present-day arc lamps are quite different, however. The arcs are metallic, the direction of the light is controlled, and trouble is infrequent. Under some conditions they are perhaps the most efficient street lighting device yet produced. They lend themselves to ornamental lighting less readily than incandescent lamps, however, and their intensity cannot be greatly varied. So in many cities incandescent lamps are taking their place.

The incandescent lamps have also been greatly improved. The bulbs designed for street lighting today are quite different from those which Thomas Edison invented and used to light the roads near his laboratory at Menlo Park. They are gas-filled, and tungsten has taken the place of carbon as a filament. Lamps of high intensity are available—such intensity, in fact, that in most cities the old-fashioned cluster of lamps has been replaced by a single lamp, or perhaps two, giving many times more illumination than ever the cluster did.

Just as streets are classified for paving purposes, so

they must be classified with regard to their lighting requirements. Otherwise the city's lighting program will be based chiefly on guesswork, and the result will be generally unsatisfactory. Many neighborhoods will receive too little light; some few sections may receive more than enough. It is quite as important to plan the street lighting system as any other phase of municipal activity. But the mistake should not be made of assuming that the same street classification will serve equally well for paving and lighting. Some streets—in the financial center or the warehouse district, for example—may be teeming with life during the daylight hours, and virtually deserted at night. Such streets should be designed and paved to meet the needs of heavy traffic, but lighted chiefly with regard to crime prevention. Then there is the theatre district. Its street lighting requirements may be out of all proportion to its daytime importance. Special consideration must be given to the problem of the chief interurban thoroughfares, from the city limits to the places where they merge with the streets of the downtown district. For these thoroughfares are traveled at a relatively high rate of speed by out-of-town motorists who know little or nothing about local road conditions. Unless the lighting system is good, acidents are likely to be numerous. Every street has its special lighting needs, and only a survey by competent technicians will show what those needs are.

Some Lighting Problems

When city officials give their attention to street lighting, they are compelled to answer a number of important questions. How high shall the lights be mounted? How far apart shall they be placed? What shall their intensity be? Shall they be attached to convenient telegraph poles, or placed on ornamental posts? Shall they be set back slightly from the curb, or suspended over the street surface? Shall the wires be strung overhead, or carried underground? Shall refractors be used to direct the light? These questions cannot be answered categorically. They deserve careful consideration.

It is generally agreed that most cities could improve their street lighting systems by increasing materially the heights at which the lights are mounted. This is because of the close relationship between mounting height and glare. Glare has long been recognized as one of the worst foes of effective street lighting. It causes a decrease in the visual capacity of the human eye, and so for all practical purposes has the same effect as if it reduced the quantity of light. There is, however, only one effective way to reduce or eliminate glare in street lighting. That is to place the lamps a greater distance from the ground. In 1927 a committee of the Illuminating Engineering Society went on record as favoring a minimum mounting height of fifteen feet, as contrasted with the present practice in many cities of mounting street lamps at a height of twelve feet or even less.[6] Under many conditions even the fifteen foot minimum is inadequate. For example, when powerful lamps are used in the lighting of business districts they should be kept at least twenty feet above the ground. And twenty or even twenty-five feet should be the minimum when lights are far apart, as in the case of highway lighting, for mounting height is closely related to spacing.

In most cities such long distances have been left between streets lights that effective illumination is impossible. Sometimes the lights are eight hundred or even one thousand feet apart. Under such circumstances most of the street space between lamps is virtually certain to be in darkness, unless on cloudless nights the moon supplements the work of the municipal authorities. In the principal business district and other sections where the lighting is designed in part for ornamental purposes, street lamps should be placed from sixty-five to one hundred feet apart, opposite each other on both sides of the street. For other neighborhoods the maximum distance between lights should be two hundred feet. It is generally agreed among street illumination specialists that most effective results

[6] Report of the committee on Street Lighting. This report is conveniently summarized in the 1928 *Municipal Index*, pp. 289-91.

are obtained when the ratio of spacing distance to mounting height is eight to one. A ratio more than ten to one should never be used for city streets. Thus lamps mounted only fifteen feet above the ground should be not more than one hundred and fifty feet apart. If the mounting height were increased to twenty feet, however, the spacing might be made two hundred feet. Most cities believe that they cannot afford so many street lamps, but the real question is whether they can afford to be without them. The lighting requirements of quiet residential neighborhoods can usually be met quite well by staggering the lamps, instead of placing them directly opposite each other. Sometimes the lamps are all on one side of the street. Staggering does not produce so pleasing an effect as opposite lighting, but the saving is considerable. One-side illumination is still cheaper. The cost factor is important in street lighting, as in most other municipal activities. It may determine whether the lamps shall be mounted on ornamental posts, and supplied with current from underground circuits, or suspended instead from poles, and fed from overhead wires.

Many city officials make the serious mistake of using lamps of insufficient intensity. In an effort to keep down street lighting costs they regularly purchase lamps of one thousand lumens (one hundred candlepower), or even less. Of course, by so doing they destroy the possibility of effective illumination, and the actual saving is much less than they imagine. For a considerable portion of the expense of street lighting is in the form of fixed charges—interest and sinking fund payments on equipment, for example. The lamp posts must be paid for, even if they are never used.

There is no general agreement as to the most satisfactory device for directing the rays from a street lamp. Yet it is obvious that they must be directed, for otherwise they would illuminate the heavens quite as much as the pavement. An ordinary reflector will serve to cast the light downward, but will not otherwise affect its distribution. In recent years refractors have become very popular. The

newer types not only bend the upper rays downward, distributing them over a wider area, but also bend outward toward the street many of the rays which would otherwise fall upon lawns and porches. Some engineers contend, however, that a great deal of light is wasted during the bending process, and that glare is materially increased.

In determining the lighting requirements of any street, it is necessary to consider the road surface. A light-colored surface, especially if shiny, requires considerably less illumination than a dark-colored surface of some dull material. From the standpoint of street lighting, Portland cement-concrete makes the best pavement of all, while bituminous macadam stands at the bottom of the list. Between these two extremes, of course, are variations of every sort. It is well to have the curb contrast with the pavement whenever feasible.

Shade trees seriously interfere with street lighting in many cities. Unless trimmed at frequent intervals and to a considerable height they are likely to produce dense shadows which no ordinary lighting system can entirely eliminate. There are a number of ways of minimizing this difficulty. Lamps may be mounted on bracket arms which are perhaps five or six feet long. Trees should be back of the property line, rather than between the sidewalk and the curb. Trimming should not be left entirely to the discretion of private owners. In planting new trees, preference should be given to species which are relatively free from low-growing branches. Most of these results cannot possibly be obtained, however, unless the city assumes a considerable measure of supervision over street trees, and vests responsibility for their control in the hands of a single competent authority.

In recent years municipal officials have devoted much more attention than formerly to the important matter of maintaining street lighting units. It is now rather generally recognized that any lighting system must be frequently inspected if it is to give satisfactory results. Globes and refractors should be regularly cleaned from four to twelve times a year, depending on the importance

of the street and the amount of smoke and dust in the air. Lamps should be replaced as soon as possible after they have burned out. Some cities even consider it wise to keep a record of the burning life of each bulb, removing all bulbs which have served their allotted lifetime of service—perhaps sixteen hundred hours. The police should be charged with the duty of reporting dead lamps, and some complaints are fairly certain to come from private citizens. But in addition every city must have its regular inspection patrols, following a definite schedule.

The question is often raised whether cities should generate their own electric current and operate their own street lighting systems, or whether they should enter into contracts with privately owned utilities. No answer can be given which would hold good under all circumstances. A great deal depends on the character of the local utility company and the volume of its business, the amount of current required for municipal purposes, the attitude of the public, and the condition of local politics.[7] One thing is clear, however: every city should own its lighting equipment. It should supply the posts, the conduits, the lamps. It is then in a position to make a satisfactory contract for current, if it so desires. It need not haggle over the manner in which lamps shall be mounted and spaced, the frequency with which they shall be cleaned and replaced. And in all probability it will be able to satisfy the utility with a relatively short term contract. If a private company were asked to go to the expense of installing expensive street lighting equipment which could not readily be used for any other purpose, it would insist, naturally enough, upon a contract running for a long term of years, so as to make sure that its outlay would not be wasted. But when it is relieved of this burden it has no sound reason for demanding a long time agreement

SELECTED REFERENCES

Agg, T. R., *The Construction of Roads and Pavements,* 3rd ed., New York, 1924.

[7] For a presentation of the arguments for and against municipal ownership and operation, see Chap. XXX.

Agg, T. R. and Brindley, J. E., *Highway Administration and Finance,* New York, 1927.

Anderson, E. A. and Haas, O. F., *Improved Street Lighting that Assures Greater Safety to Traffic,* New York, 1923.

Baker, I. O., *Treatise on Roads and Pavements,* 3rd ed., New York, 1918.

Besson, F. S., *City Pavements,* New York, 1923.

Cady, F. E. and Dates, H. B., ed., *Illuminating Engineering,* New York, 1925.

Haas, O. F., *Street Lighting Designs,* Bulletin No. 46-a of the Engineering Department, National Lamp Works of the General Electric Company, Cleveland, 1926.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXVII and XXXIX.

Post, A. J. and McCaffrey, G. H., *Street Name Signs,* Municipal Administration Service, New York, 1928.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. XXV and XXIX.

Flagg, E. C., "City of the Future," *Scientific American,* September, 1927.

McFarland, J. H., "Illumination or Advertisement," *National Municipal Review,* Vol. XXX, 1924.

Meyer, J. F., "Survey of Street Lighting Practice in the United States," *American City,* Vol. XXXII, 1925.

Miller, H. J., "Minneapolis Loses Through Antiquated Street Maintenance Methods," *National Municipal Review,* August, 1928.

Wood, L. A. S., "Modern City Lighting," *Public Management,* January, 1928.

CHAPTER XXIII

POLICE AND FIRE SYSTEMS

Police

The police department of an American city is charged with a vast number of functions. Its chief task, of course, is to enforce the laws and ordinances of state and city, and preserve the peace. In recent years it has been called upon to shoulder the enormous burden of regulating an ever increasing traffic flow. Its members are expected to answer promptly and correctly all kinds of questions, to be on hand in every emergency, and to give first aid when needed. Aside from these primary duties, the police department is charged with a long list of other duties, chiefly because no other department cares to bother with them. Thus it frequently inspects elevators and boilers, issues licenses of almost every description, censors motion pictures, operates the dog pound and the municipal ambulance service, and takes an annual census of school children. This multiplication of police duties is sometimes defended on the ground that virtually every activity allotted to the police department is in some way related to the public safety. But if every municipal function affecting the safety of the people were placed under the control of the police, it would not be long before the police department absorbed virtually the entire city government. Fire prevention, street paving and bridge construction, street lighting, public education, recreation—all these things are related to public safety quite as closely as motion picture censorship or census taking. The truth of the matter is that the police department has become a sort of municipal waste-basket; functions not readily assigned elsewhere are placed in its keeping.

America's Poor Record

It must be admitted that in the cities of the United States the police have made a sorry job of law enforcement. Crimes of every description are much more numerous in this country than in Europe. In a recent year, for example, Cleveland had six times as many murders as London, and more robberies than all Great Britain.[1] Yet Cleveland's citizens are probably quite as law abiding as the residents of other American cities. Not only are more crimes committed; fewer arrests are made. If a man commits robbery in almost any municipality of the United States, the odds are at least ten to one that he will not be arrested. Should he transfer his activities to England, however, he would have only one chance in five of escaping arrest, and about an even chance of finally landing behind the bars.[2] Under present-day conditions, the American professional criminal is engaged in a highly lucrative and relatively safe occupation. The possibility that he will be punished for his misdeeds is very remote. "The luckless individual who is occasionally caught and convicted must attribute his misfortune to an act of God, as he would in case of disastrous storm, shipwreck, or earthquake."[3] The police cannot be censured for the failure of the courts to convict. They are only partly responsible for the excessive number of crimes committed, for they have never been expected to give much time or thought to means of preventing crime, and certainly they cannot be blamed for diverse economic and social conditions. But they can be held strictly accountable for their poor showing in making arrests.

It is a matter of common knowledge that in many cities the police work hand and glove with the very persons whose unlawful activities they are supposed to check.

[1] "Criminal Justice in Cleveland," Reports of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland, pp. 3-4.

[2] "Relation of the Police and the Courts to the Crime Problem," report of the National Crime Commission, p. 6.

[3] *Ibid.*, p. 7.

Keepers of "speakeasies" and disorderly houses frequently operate under what amounts to a regular license system, though the money they pay for protection never finds its way into the coffers of the city.[4] If they fail to make their contributions regularly, they know that they will soon be haled into court to answer for their misdeeds. Conditions of this sort would not be tolerated in the cities of Europe. Of course, European policemen do not always resist temptation. Occasionally instances of their dishonesty come to light. But such instances are rare; and still more rare are working agreements between municipal police departments and the underworld. The average European city takes for granted the integrity of its police. When a householder goes traveling, he often gives to the patrolman on the beat the key to his home, so as to make access easy in case of fire or accident. He has no fear that his confidence will be betrayed.[5]

It is but natural, therefore, to ask why American police fail so generally and so signally to do their work efficiently and honestly—why the police department is commonly regarded as a synonym for municipal corruption. There are many answers, for many factors are responsible. Part of the trouble can be attributed to the method of selecting the members of the police force, from the commissioner or board down to the patrolmen. In many cities appointment to the force is frankly a reward for political activity. The man who wishes to don a patrolman's uniform must first make himself valuable to his division leader. Before he can hope to wear a lieutenant's stripes he must become a power in his ward. He must know how to control votes. And one of the surest ways to obtain a man's vote is to look the other way when he violates the law. Occasionally a raw recruit may wish to be honest, but he is seldom given the opportunity. When he discovers that a store is selling liquor in violation of the law, he is told by his superior officers to forget about the matter—so-and-so has already paid for protection. When he arrests a law breaker who

[4] See p. 341.
[5] See Chap. X of Raymond B. Fosdick's *European Police Systems*.

happens to be powerful politically, he is given a reprimand for his pains. And in time he learns that the path of advancement is the path of corrupt politics. Small wonder that the rank and file of the men have low standards, when their officers set them so poor an example! In some instances the entire system of underworld tribute is devised by the head of the department, who receives the lion's share of the spoils. The merit system has undoubtedly been of some value in forcing the selection of men on the basis of ability, but many cities still select their policemen without regard to civil service regulations. Moreover, there are a number of ways of evading a civil service law.[6] And even the merit system does not insure the honesty or capacity of municipal employees.

The poor showing of the police is due in part to the low salaries paid in most American cities. A few of the metropolitan centers, such as New York, Chicago, Detroit and Cleveland, fix the pay of patrolmen at about twenty-five hundred dollars after several years of service, but they are the exceptions. In the average municipality, sixteen or eighteen hundred dollars a year is the most that a policeman can ever hope to earn unless he rises from the ranks, and out of that meagre salary he is commonly required to pay for his own uniform.[7] Inadequate salaries usually attract inadequate men, and police forces are no exception. A few years ago the members of the Cleveland police force were given the regular army Alpha intelligence tests, with startling results. About twenty-five per cent of the patrolmen were found to be of distinctly inferior mentality, and many of them made an especially poor showing. Some of them were clearly morons.[8] Now there is no reason to believe that the Cleveland police force is markedly inferior to the police forces of other cities. The men are probably selected with as great care as elsewhere, and certainly they

[6] See pp. 388-90.

[7] In the twenty-three largest cities of the United States the average maximum salary paid to patrolmen is slightly in excess of $2100, but the smaller municipalities pay much less.

[8] A convenient summary of these findings is printed in a report of the National Crime Commission already cited.

are paid as much or more. Even if some allowance is made for possible inaccuracies in the Cleveland tests, therefore, it is impossible to escape the conclusion that many American policemen are not mentally equipped to do the important work entrusted to them.

The police force of a modern American metropolis is a veritable army, its numbers mounting into the hundreds or even thousands. New York City has more than sixteen thousand policemen of all ranks. Yet American police forces seem small in comparison with those of Europe. Take at random almost any city of the United States and compare it with a city of equal population in Great Britain, France or Germany. It will probably be found that the European city has a police force at least twenty-five per cent larger. This may mean that Europe has too many policemen; it probably indicates that the United States has too few.

Yet the cities of this country pay a tremendous bill every year for police protection. The total runs into the hundreds of millions. The annual cost of operating the police departments of the five largest cities is about seventy-five million dollars. Police protection costs more than health work, sewage disposal, street lighting and public recreation combined. It is likely to become still more expensive as the need for additional policemen becomes apparent, and as the people learn that they cannot obtain high grade men without paying for them.

A few years ago it was taken for granted that police work was largely a matter of common sense. No attempt was made to provide any sort of training. The raw recruit was commonly assigned to the company of an experienced patrolman for a week or ten days, and during that period he was supposed to learn the fundamentals of his work. Sometimes even this formality was neglected. The belief was widespread that a badge, a uniform and a club would suffice to transform any man into a competent policeman. Even today this idea persists. One commissioner of public safety thinks that a recruit is ready for work as soon as he has been given a few words of fatherly advice. Here is

the advice, in the commissioner's own words: "I say to him that now he is a policeman, and I hope that he will be a credit to the force. I tell him that he doesn't need anybody to tell him how to enforce the law; that all he needs to do is to go out on the street and keep his eyes open. I say: 'You know the Ten Commandments, don't you? Well, if you know the Ten Commandments and you go out on your beat and you see somebody violating one of those Commandments, you can be sure that he is also violating some law.' "[9] To assume that a policeman will have an adequate concept of his duties and powers because he knows the Ten Commandments is as ridiculous as to suppose that a man can become a wild animal trainer by reading the story of Daniel.

Training Schools

At the present time the matter of police training is receiving widespread attention. As early as 1911 Detroit established a training school for recruits, and a few years afterward New York City extended the scope of its early experiments so as to provide a three months' course of instruction for all new members of its force, though the period was later reduced to two months. Special classes were also formed for patrolmen and officers who expected to take promotional examinations. Other large cities have followed the lead of Detroit and New York, but their schools offer less elaborate instruction, and for a shorter period. Many a smaller municipality has solved the problem of police training by sending one or more of its officers to the training school of a neighboring metropolis—perhaps the New York school, which has a very high reputation. Upon their return these officers are better qualified to instruct the rank and file of their men in the rudiments of police work. The training given to policemen should cover a broad field. It should include such subjects as first aid to the injured, English and report writing, practical civics, police powers and duties, department rules and

[9] Report of the Sub-Commission on Police to the Crime Commission of New York State, p. 27.

regulations, state laws and municipal ordinances, field work, pistol practice, humane handling of prisoners, criminal identification methods, elementary rules of evidence, court procedure. Even this enumeration does not complete the list of things a policeman must know before he can reasonably be expected to do his work satisfactorily. For even the average policeman—the man on the beat—is called upon to make important decisions and handle important matters in the course of his daily routine. Whenever he sees an ordinance or a law violated, he must decide whether the violation is of sufficient consequence to demand his attention. If he acts, he must determine whether a reprimand will suffice. He is, in fact, a court of first instance for thousands of persons. When a serious crime is committed, he is usually the first representative of the city to reach the scene. He must take care that important evidence is not destroyed, and that witnesses are not permitted to leave without questioning. He must make arrests if necessary. These things require common sense and more than common tact, of course; but in addition they necessitate a considerable amount of specialized training. The most ambitious experiment in police instruction yet undertaken by any American municipality is the school which Berkeley, California, established a few years ago for the twenty-eight members of its force. A three-year curriculum was prepared, including such subjects as chemistry, biology, physiology and anatomy, criminology, heredity, toxicology, psychiatry, microbiology, police microanalysis, criminal law. With such a program, Berkeley is at least a quarter of a century ahead of the average American city. Many municipalities, in fact, still ignore the important matter of police training, leaving the men to shift for themselves just as they did fifty years ago. Small wonder that American police methods are far from satisfactory!

The reasons already advanced to explain the poor showing of the police are not the only ones that have been suggested. It has been said by some that the morality of the police is inevitably lowered by the attempt to enforce

standards of conduct which do not meet with universal public approval. Take prohibition as an example. Many normally law-abiding persons regard the prohibition of liquor as a direct interference with their personal liberty, and therefore violate state and federal liquor laws without a qualm. Many normally lawless persons turn their attention from banditry to bootlegging, and offer to pay well for police protection. Such a state of affairs, it is contended, is certain to result in wholesale police corruption. Even the newest recruit soon learns that the door is open to ready wealth. Then there are still other explanations of the crime record of American cities. Perhaps the heterogeneity of their populations is partly to blame. For every city has its different racial groups, each with its own standards, its own morality, its own concepts of right and wrong. Many of these concepts are at variance with American tradition, and the natural result is a conflict of standards which goes by the name of lawlessness. Sometimes it is said that the chief cause of all the trouble is faulty police organization. The police department has "ventured almost nothing in experiment, and copied very little from the experience of other private and public organizations. Today the patrol force is distributed . . . exactly as it was twenty or thirty years ago. There is nothing new in the detective service save faces and a few meagre records. Traffic regulation has been developed, but this modern necessity has been met only by draining the department's resources for coping with crime. No new practices have been employed for ferreting out and removing conditions that produce crime. . . . A private business whose affairs were carried on in such hit-or-miss fashion could not long escape bankruptcy." [10]

Police Department Organization

It is well worth our while, therefore, to examine the organization of the police department. Sometimes the department is headed by a chief, who is appointed directly by the mayor or manager. In the larger cities, however, it

[10] Cleveland Survey, *op. cit.*, pp. 7-8.

is customary to place a civilian commissioner or board in charge, and as a rule the commissioner or board then chooses the chief of police. A few decades ago the board system of control was generally accepted for American police departments. Even today it is found in a few cities, such as St. Louis, Indianapolis, San Francisco and Louisville, but the need for prompt action has made it unpopular. Since 1900 city after city has discarded its police board, and created instead the office of commissioner or director. City charters seldom make clear the exact relationship between police commissioner and police chief. Presumably the commissioner is to be an experienced civilian administrator, unacquainted with the details of police routine but familiar with the principles underlying all sound organization, while the chief is to be a highly trained routine man, perhaps risen from the ranks, and knowing intimately all the minutiæ of police work. It then becomes the duty of the commissioner to consider the broader aspects of police administration, deciding important questions as they arise. He is freed from the necessity of passing upon routine matters, which naturally fall within the province of the chief. Unfortunately, this theory is seldom followed in practice. Though the police chief commonly conforms to specifications, the commissioner or director does not. In most cities the chief is just what he is intended to be—a glorified patrolman. His promotion has come by reason of his bravery, intelligence, luck or partisan fidelity. But only occasionally is the commissioner a broad-gage man. More often than not he is a ward leader, and his appointment is a frank recognition of his services to the faction in power. He is generally incapable of deciding important policies with any degree of intelligence. As a result, he is likely to spend his time interfering with the administrative routine which should properly be the exclusive interest of the chief. And since he is legally the head of the department, the chief's protests are fairly certain to be ineffectual. The remedy for this state of affairs is not to abolish the office of commissioner, but to arouse public opinion to the neces-

sity of appointing better commissioners. An experienced civilian administrator at the head of the police department is almost as essential as an experienced routine chief of police, especially in the great metropolitan centers, for the kind of training that makes a man an efficient police chief almost inevitably unfits him to handle the broader aspects of department administration.

In a number of the larger cities, including Philadelphia, Newark, New Orleans, Indianapolis, Rochester and St. Paul, and in many smaller municipalities as well, police and fire protection, together with a number of miscellaneous functions, are combined in a department of public safety. The chief of police is merely chief of one of the department's many bureaus. Students of police administration generally regard this arrangement with disfavor. They point out that the union of the police and fire forces under a single head is illogical and likely to produce unsatisfactory results, because fire fighting and law enforcement have very little in common. There are certain superficial similarities, of course. Both services are designed to protect the public; both are performed by uniformed men, organized on a semi-military basis. But firemen deal with brick, stone and wood. Their work can be judged by mechanical standards. They work at all times under the immediate direction of their superiors. Policemen, on the other hand, deal with human beings. No rigid standards can measure the quality of their work. No superiors can tell them exactly what to do under all circumstances, for unforeseen emergencies may arise at any time to test their initiative and judgment. There is little doubt, therefore, that from the standpoint of police efficiency better results can be obtained by separating police from every other municipal activity. Yet there is something to be said on the other side of the question, for the argument which justifies a separate police department might also be used to prove the need for separate departments of food inspection, dog catching, legal aid, employment, street lighting. It can fairly be said that almost any activity would be performed more thoroughly and with greater care if it were

placed in a separate department, and given the attention and funds that a department usually receives. But the number of municipal departments ought to be kept low in the interest of general administrative efficiency. The mayor or manager who is asked to supervise the activities of a score or more of unrelated agencies is almost certain to find the task beyond his capacity.[11]

Some years ago it was the fashion to put municipal police affairs directly under state control. New York set the style in 1857, when the state legislature created a metropolitan police district, with a police board appointed by the governor. By 1880 a large number of cities had been deprived of all control over their own police forces. Then the reaction set in. Well intentioned citizens learned to their sorrow that state-appointed boards could be quite as inefficient and corrupt as boards locally chosen. They learned, too, that state management of their local affairs was not self-government, and after a time they became insistent in their demands for a greater measure of home rule. Today the police department is controlled by the regular municipal authorities in almost all American cities. The only important exceptions are Boston, St. Louis, Baltimore and Kansas City.

The merit system is becoming increasingly popular as a means of selecting policemen, especially in the larger cities. It is also used, though less widely, in making promotions. Sometimes the promotional examinations given by the civil service commission are supplemented by a system of efficiency records. Each member of the force is rated on the basis of a number of factors—promptness, obedience and the like. The complaint commonly made against these so-called efficiency records is that they are chiefly negative. As used in many cities, at least, they measure inefficiency instead of efficiency. They operate against the man who is careless, insubordinate or habitually late, but offer no reward for honest, efficient, day-by-day routine service. Merit marks, if given at all, are usually reserved for deeds of conspicuous bravery. The average patrolman, there-

[11] See p. 368.

fore, finds that he is most likely to win promotion by avoiding trouble and thus keeping his record clean. The right of dismissal generally vests in the head of the department. In some cities, however, a dismissed subordinate may appeal to the civil service commission, or even to the courts. Appeals should not be permitted, for they are likely to reduce police efficiency and destroy discipline. The commissioner or chief of police cannot fairly be held responsible for results if his decisions may at any time be reversed by another agency of the city government.[12]

For administrative purposes a city is divided into police precincts, each precinct having its own station house and its own quota of men. The station house is the local law enforcement center. To it the policemen report, and in it they stay while on reserve duty. It has a number of cells for the temporary detention of arrested persons. Each precinct is in charge of a ranking officer, usually a captain. Below the captain are lieutenants, two or three to a precinct, who attend to the routine work of hearing complaints, answering questions, entering the names of those who have been arrested, and keeping other necessary records. As a rule, the lieutenants also go out on the street during part of their hours of duty, and supervise the work of the patrolmen. Systematic and continuous patrol supervision, however, is entrusted to officers known as sergeants or roundsmen. In a few of the big cities the precincts are combined into inspection districts, which are supervised by inspectors.

The rank and file of the police force are called patrolmen because their usual task is to patrol the streets, keeping a lookout for violations of the law. Each patrolman is assigned to a definite post or beat, generally consisting of a large number of city blocks. In recent years some cities have adopted so-called straightaway beats to meet special conditions. Each beat is laid out as nearly as possible in a straight line, extending for a certain distance along a single street, though perhaps including side streets for half a block on either side of the main thoroughfare. The

[12] See pp. 402-4.

straightaway plan enables a patrolman to have a continuous view of most of his post, and also makes it easier for his superior officers and for citizens to find him. In the downtown sections of some of the larger cities fixed posts were established a few years ago. Certain important street intersections were designated as posts, and at every such intersection a policeman was always on duty. Of course, these fixed posts were in addition to the regular patrol posts. They did not eliminate the necessity of patrolling the streets. For that reason they required a larger force, or else a serious reduction in the number of men assigned to the suburbs. They are now rapidly disappearing, largely because of the multiplication of traffic posts.

The manner of dividing a city into beats is not usually given the attention that it deserves. The same beats are continued year after year, without regard to the changing conditions and varying needs of different neighborhoods. In all probability they were originally laid out on the basis of general impressions instead of accurate information. As a result, some posts are too long, while others are too short. Some are especially adapted to motorcycle or automobile patrol, but are still covered on foot. The average city is badly in need of a scientific re-apportionment of patrol posts. First the necessary facts must be secured. For every block in the city the records must show the character of the buildings and the purposes for which they are used, the amount and kind of vehicular traffic, density and nationality of the population, accident, fire and crime hazards. With this information at hand, and kept up to date, a city's patrol force can be so distributed as to produce maximum results.

Nine patrolmen out of every ten cover their beats on foot. No other method of patrol would prove satisfactory in many districts—the downtown business center, for example. The foot policeman may require a long time to cover his post, but he covers it more thoroughly. He is able to devote his entire attention to his work, and free to investigate every suspicious occurrence. He will probably

remain the backbone of the police force in nearly every city. There is no doubt, however, that in the more sparsely settled suburban districts motorcycle and automobile patrol, or even patrol with bicycles, would often give good results. In a number of cities motor patrol is already used quite extensively. The beats are longer, and thus a considerable saving is effected. Horseback patrol, though once very popular, has proved ineffective and is rapidly becoming almost obsolete. The policeman on horseback is useful in breaking up street riots, and adds a touch of color to every parade, but for most other forms of police duty he is at a considerable disadvantage. For his horse requires a great deal of attention, and is apt to give more trouble than help.

Ordinary patrol, whether by foot or motor, is not sufficient to give adequate night police protection in residential neighborhoods. There must be some way of finding a policeman in a hurry, and directing him to the scene of an emergency. One of the best plans yet devised is known as the patrol booth system. The booths, equipped with telephones, are placed at central points. There are a number of variations of the system, but in a considerable number of cities the policemen work in relays, one remaining on booth duty while the other patrols, usually with a motorcycle. If the man on patrol comes to an unoccupied booth, he remains until relieved. Thus there is nearly always someone on duty at every booth.

A great many cities have installed flashlight, horn or gong systems which enable desk officers to attract the attention of the men on patrol duty. Some of these systems are quite simple, and their cost is not excessive. One of the cheaper types consists of nothing more than a number of small red lights, attached to lamp posts or telegraph poles, and connected with nearby fire houses. Whenever a precinct commander wishes to get in touch with any of his men, he merely telephones to the proper fire house. Such a system is useful, not only in indicating emergencies, but in recording patrolmen's efficiency. If used too frequently

as a check, however, it may cause the average patrolman to watch the light rather than his beat.

Police duty is continuous, so it becomes necessary to divide a force into shifts or platoons. Three platoons are the rule, one serving from eight a.m. until four p.m., another from four p.m. until midnight, and the third from midnight until eight in the morning. These platoons are commonly of uniform size. They should not be, however, because more men are needed for patrol duty at night than during the day hours. A certain number of policemen should always be on reserve duty, which simply means that they should sleep at their station houses, or possibly at city headquarters. In a few instances, the members of the force are shifted at regular intervals from one platoon to another, so that everyone will have his share of day, night and reserve service. The once popular two-platoon system has now been discarded by most cities, because it makes too heavy demands on the policemen's time. When only two platoons are used, every member of the force must be on active or reserve service two hours for every hour he is off duty.

Although the detective force is much smaller than the uniformed force, its work is very important. The chief of the detective bureau is commonly appointed by the head of the department, perhaps upon the recommendation of the chief of police. No distinction is made between detectives and uniformed policemen, except that the rate of pay for detectives is sometimes slightly higher. Men are regularly shifted from patrol duty or traffic regulation to detective service, and back again to patrol or traffic duty. As a rule, no attempt is made to select detectives because of their special aptitude for the work. A policeman who has shown conspicuous bravery or has demonstrated his ability to pull the proper political wires is often assigned to the detective bureau as a relief from the monotony of street patrol. In most cities, therefore, the detectives are nothing more than patrolmen without uniforms. Their work reflects their lack of training, and

perhaps their lack of intelligence as well.[13] Many times they are called upon to match their wits against specialists in crime—men and women who use scientific methods to escape detection. The result is not always flattering to the forces of law and order.

[13] Here is what two Cleveland detectives accomplished in an entire month, according to their own report. This statement is taken from the Cleveland Survey already cited, pp. 69-70.

1. "Detective Cowles and I investigated this complaint and we were unable to locate the men suspected will continue on same."
2. "Detective Cowles and I investigated this complaint we were unable to get any trace of the thief or property."
3. "Detective Cowles and I investigated this complaint was unable to locate the man suspected."
4. "Detective Callahan and myself investigated above report, interviewed Mr. —— also made inquiries in that vicinity, was unable to get any further information than original report."
5. "Detective Cowles and I investigated this complaint we were unable to learn anything on same."
6. "Detective Callahan and myself investigated above report, interviewed —— —— manager also made inquiries in that vicinity was unable to get any trace of the thief or thieves. They do not suspect any one."
7. "Detective Cowles and I investigated this complaint we were unable to get any trace of the thief or property."
8. "Detective Cowles and I investigated this complaint we were unable to learn anything on same."
9. "Detective Cowles and I investigated the complaint was unable to get any trace of the thief or property."
10. "Detective Cowles and I investigated this complaint we were unable to get any trace of the thief or property this job evidently was done by boys."
11. "Detective Cowles and I investigated this complaint we were unable to learn anything on same."
12. "Det. Callahan and myself investigated above report. Interviewed Mr. —— was unable to receive any further information or any trace of the burglars."
13. "Det. Callahan and myself investigated above report, interviewed Mr. ——. Learned that the property stolen was insured for more than he valued it at. Satisfied this report is not Legidiment."
14. "Det. Callahan and myself investigated above report, interviewed Mr. ——. Also made inquiries in that vicinity, was unable to get any trace of burglars & property. Will continue."
15. "Det. Callahan & myself investigated above report was unable to give any description. Does not suspect any one."
16. "Detective Cowles and I investigated this complaint we were unable to learn anything on same."

It is unfortunate that the average city does not train its detectives more thoroughly, for science can be made to serve the city quite as well as it serves the criminal. Every new device that aids in the commission of crime can be matched by an invention that simplifies crime detection. But municipal officials are slow to accept science as an ally. Take, for example, criminal identification. The dactyloscopic or fingerprint method of identifying criminals is generally recognized as by far the most reliable, especially if used in conjunction with photographs. Yet a great many cities still rely entirely on the time-honored rogues' gallery, or else merely combine it with the Bertillon system of body measurements. For several years the federal government has simplified the task of identification by maintaining at Washington a large collection of criminals' photographs, measurements and finger prints. There are also many state identification bureaus.

A great many cities, including nearly all the larger ones, employ women for police service. New York has more than one hundred policewomen, and a number of other cities—Cleveland, Detroit, Washington, St. Louis and Indianapolis, for example—have separate women's divisions within their police departments. The women are assigned to special work. Some visit the dance halls for the purpose of preventing immorality, some do social work with delinquent girls and women, while others are used as detectives. Every city follows a somewhat different plan.[14]

State police forces have been established in several states. These policemen are primarily for the protection of the rural districts, but at times they find it necessary to carry on their activities within city limits. The pursuit of a suspected criminal, for example, must not stop merely because he happens to cross a municipal boundary line. Yet when state and local police operate within the same territory, the opportunities for conflict are endless. Great care is usually taken to minimize this danger. The state policeman entering a city is told to report at city headquarters, explain his errand, and ask for local assistance. One of

[14] See *Women Police*, by Chloe Owings.

the ten commandments of the New York state force is "Thou shalt keep away from the cities!" Most of the other state forces follow a similar policy. In Texas, on the other hand, the state police are frequently sent into the cities to enforce the liquor laws and put a stop to commercialized vice. Such a policy of interference almost inevitably leads to ill feeling, and reduces the likelihood that state and local police will co-operate in apprehending dangerous criminals.[15]

Fire

American Fire Losses

Look at your watch as you read this sentence. Have ten seconds elapsed? Then during those ten seconds nearly two hundred dollars' worth of property was destroyed by fire somewhere in the United States. Every hour of the day, and every day of the year, fire is taking its fearful toll. It transforms great stores and factories into hollow, gutted shells, and reduces private homes to smoking ruins. It exacts the sacrifice of human lives. It places a heavy financial burden on industry and commerce. In the United States, more than half a billion dollars' worth of property literally goes up in smoke every year.

European fire losses seem small by comparison. When a hundred thousand dollar blaze occurs in any of the cities of Europe, it is news of the first importance. It is assured prominent mention in every newspaper. People ask how it occurred, and who was to blame. Editorials are written about it. But hundred thousand dollar fires are so commonplace in the United States that they almost cease to be news. Per capita fire losses in this country are six times as great as in Great Britain, and seventeen times as great as in Germany. Of course, there is more property per person to be destroyed in the United States, and its dollar value is higher. There can be no doubt, however, that American fire losses are excessive. Yet American

[15] For an excellent discussion of state police and their relation to urban police forces, see Bruce Smith's volume, *The State Police*, pp. 73-80.

fire departments are much better equipped than the fire departments of European cities.

It is worth our while, therefore, to inquire why this difference exists. Why are fire losses so large in the United States? One thing is certain; no large part of the blame can be laid at the door of the fire departments. The entire American people must accept their share of the responsibility. Americans have the reputation of being the most careless people in the world, and they seem determined to retain this unenviable distinction. They throw away lighted matches without thought of the damage that may be caused. They permit piles of trash—old paper, broken bits of wood, greasy rags—to accumulate in cellar corners, though every such pile creates a serious fire hazard. They use inflammable liquids for cleaning purposes without taking proper precautions. They stack dead leaves beside the walls of their homes. And then, when a fire occurs, they call it an accident, a misfortune, or an act of God.

Very seldom is any attempt made to fix the blame for a fire, unless it seems to have been of incendiary origin. The man whose property has been destroyed, even through his own carelessness, is generally regarded as the victim of circumstance. No one suggests that he has been guilty of an unneighborly act in permitting the property of others to be jeopardized by his lack of caution. How strangely this attitude contrasts with the European viewpoint! In France, when a man carelessly permits fire to damage his neighbor's property as well as his own, he must pay his neighbor's loss. Many German cities assess the cost of putting out a fire against the man responsible for it. An exemplary fine may also be added. Every fire is followed at once by a careful investigation to fix the blame. Builders soon learn that they must conform to the building code, and tenants discover that they must exercise reasonable care. For both builders and tenants are charged with the duty of preventing every blaze that can be prevented. The charters or ordinances of a few American cities have recently been amended to provide that any person who ignores a fire department order—perhaps to install a fire

door or a sprinkler system—and later has a fire on his premises, is liable to the city for the cost of extinguishing it. Legislation of this sort makes carelessness very expensive.

The heavy fire losses of American cities are due in part to the extensive use of wood as a building material. Wood is abundant in this country, and rather cheap, so in many sections wooden houses are the rule. Whatever their merits may be, they certainly have the grave disadvantage of increasing the fire hazard materially. Wooden roofs, especially, are a menace whenever a conflagration breaks out. After a long spell of rainless weather they become tinder-dry, offering convenient lodging places for sparks blown by the wind. Many cities now prohibit wooden shingles in roof construction, and the prohibition should be made universal.

Virtually every city in the United States has a building code, enacted by council or the state legislature. Sometimes this code is drawn with extreme care, but all too often it bears evidence of careless draftsmanship. In any event, it prescribes in considerable detail what building materials may be used, what precautions must be taken with electrical equipment and wiring, what fire escapes shall be provided and where they shall be placed—in short, it deals with every phase of construction which might conceivably affect the fire hazard. It usually contains in addition other sections designed to insure sanitary conditions and safe construction, for fire prevention is only one of the purposes of the building code. As a rule, the code regulations do not apply uniformly throughout the entire city. Within the "fire limits," as the conflagration area is called, frame construction is prohibited, while in the suburbs building permits may still be issued for wooden structures. Buildings are commonly classified according to use. Thus regulations of one kind are made applicable to garages, paint shops and dry-cleaning establishments, while rules of an entirely different character are used for theatres, factories, private dwellings. Municipal building codes have often been criticized because of their needless complexity, ambiguous wording, and poor arrangement. But improper

phraseology and classification are a far less serious matter than lax enforcement. In many a city the men responsible for enforcing the building code have been appointed because of partisan influence, and lack even a hazy notion of how their work should be done. As a result, builders are virtually free to respect the code or ignore it, as they see fit.

In the past Americans have been prone to place their emphasis on fire fighting rather than fire prevention. They have built up large municipal fire departments, and supplied them with expensive equipment. They have devised and installed complete alarm systems, replaced horse-drawn engines with motor-driven apparatus, and materially reduced the amount of time necessary to reach a fire. But they have given little thought to discovering and eliminating the causes of fire. Recently, however, there has been a marked change. Municipal officials and civic bodies, such as chambers of commerce and rotary clubs, have engaged in carefully organized fire-prevention campaigns. Firemen and others have been sent into the schools to tell the children about the dangers of fire and to emphasize the important fact that at least half of the fires which break out every year in the cities of the United States are preventable. Posters and pamphlets have been used to educate the older generation. "Fire Prevention Week" has become an annual event. The fire departments of a number of the larger cities have separate bureaus of fire prevention, whose members investigate every fire with a view to determining its cause, and regularly inspect all buildings except private dwellings for the purpose of discovering fire hazards and securing their removal.[16]

Fire Department Organization

Municipal fire departments are organized in much the same manner as police departments. Sometimes there is a board of fire commissioners, but more commonly depart-

[16] See "The Detroit Fire Prevention Bureau," published in the Quarterly of the National Fire Protection Association, April, 1928. The National Fire Protection Association and the National Board of Fire Underwriters has jointly adopted a model municipal ordinance establishing a bureau of fire prevention.

ment control is vested in one person—a civilian commissioner or a professional fire chief. If fire and police work are combined in a department of public safety, the fire chief becomes merely the head of the fire bureau. A city is divided into fire districts, which vary in size according to the amount and value of property requiring protection, the height of buildings, the congestion of population, and other factors affecting the fire hazard.

The basic fire-fighting unit is the company, a little group of men assigned to a single piece of equipment—a pumping engine or ladder truck, for example. Each company has its captain or lieutenant, and all the companies in a district are under the command of a battalion chief, who reports directly to the municipal fire chief. Scattered throughout the city are fire stations, usually four or more to a district, which house the men and equipment. It is customary to have but one or two companies at each station.

When a fire breaks out, an alarm must be sent in. This may be done from any telephone, or from any one of the fire alarm boxes which are placed at frequent intervals throughout the city. The alarm is first sounded at headquarters, and then relayed to the proper station. Sometimes it is re-sent to all stations, so that every company in the city will know whether there is a probability that it may be called upon. Progressive cities take great care to provide reliable fire alarm systems. They usually place the wires underground, and build their headquarters of fire-resisting materials, outside of the conflagration areas. Systematic tests are frequent.

The sounding of an alarm brings prompt action. Within three or four minutes, at the most, at least one company is at the scene of the fire. The amount and kind of apparatus responding to a first alarm vary with the neighborhood. If additional alarms are sounded, other apparatus goes into action, all according to a pre-arranged schedule. A special signal, known as a general alarm, brings out virtually every company in the city. Whenever a fire company responds to an alarm, it necessarily leaves the remainder of

its territory unprotected. So the task of extinguishing fires that may break out during its absence is given to other companies at nearby stations. These other companies are at once notified of their additional responsibility. In some cities a systematic redistribution of equipment takes place, certain idle companies moving from their own stations to the stations that have been left vacant.

The first company captain to reach a fire takes charge until the arrival of the battalion chief, when he relinquishes his authority. The battalion chief quickly surveys the situation, and maps out a plan of action. He determines what the firemen are to do, and how their equipment is to be used. If the fire continues to make headway, he sends for additional companies. He must be careful to prevent unnecessary damage from water, chemicals or firemen's axes, and to protect neighboring buildings. In the larger municipalities the city fire chief responds only to the most serious fires, but when he appears he of course assumes command.

Modern Equipment

In recent years fire-fighting apparatus has been greatly improved. Almost everywhere motor-driven pumping engines have replaced steam engines, and the ladder trucks of the larger cities are now equipped with quick-lifting aerial ladders.

Chemical extinguishers have become universally popular. Some of them are portable; others are mounted on the chassis of automobiles. Turret pipes and deluge sets make it possible to use very heavy streams of water, while ladder pipes and water towers carry these heavy streams to the upper stories of buildings. Above eighty feet, however, it is generally necessary to rely on the standpipe systems which are provided in all modern skyscrapers. Smoke helmets and gas masks are regularly carried on apparatus, enabling firemen to work under conditions which would otherwise be intolerable. Cities with extensive water fronts use fire boats. These boats resemble ordinary tugs, but the space commonly reserved for the crew is given

over to fire pumps. Oil burners are proving more popular than those which use coal for fuel. Recently gasoline motor boats have been adapted to fire-fighting service, with considerable success.

In nearly every large city the downtown business district—the area of high buildings and high property values—is protected with a high pressure system. This consists of separate mains specially designed to carry water under heavy pressure, and of separate hydrants. Water is delivered to the hydrants by pumping stations which are situated when possible beyond the conflagration zone, at a pressure sometimes as great as three hundred pounds to the square inch. New York uses twelve electrically driven pumps, each having a maximum capacity of three thousand gallons per minute. In a city of skyscrapers a high pressure system is essential, for it is by all odds the most effective way of carrying powerful streams of water to great heights. New York, Chicago and Detroit, it is true, have some skyscrapers which actually rise above even the high pressure limit, and must therefore rely mainly on their own fire pumps for complete protection. But the upper stories of the average high building can speedily be flooded, if necessary, by connecting a high pressure hydrant with the building's standpipe system.

Firemen are commonly paid low salaries, and their hours are long. Some years ago it was the universal rule to require continuous duty for four or five days at a stretch, followed by a day off. But the modern trend is toward the two-platoon system, so as to give some time off at least a portion of every day. The night shift is commonly fourteen hours, and the day shift ten. Whatever the arrangement, firemen have a great many idle hours. They spend a very small portion of their time—perhaps not more than one hour in a hundred—fighting fires. Of course, they must keep their equipment in proper shape, and participate in practice drills. But during most of their hours on duty they have nothing to occupy their minds. The question naturally arises, therefore, whether the idle time of firemen could not be turned to advantage. Some of the

more progressive cities require each fireman to inspect buildings in the district to which he is assigned, so that he may become familiar with local conditions affecting fire risks. It is important for him to know in advance the location of standpipes, elevator shafts, fire escapes, fire doors and the like. Occasionally this knowledge is made the basis of reports, which all the members of a company study. In this way it is quite possible to prepare a plan of attack for every one of the larger buildings. Another profitable way of utilizing spare time is to give systematic training in the fundamentals of fire prevention and fire fighting. Many of the larger communities have regular training schools for firemen, but the fifteen- or thirty-day courses offered in even the best of these schools can well be supplemented by part-time instruction extending over long periods.

The water used to extinguish a fire often causes more damage than the fire itself. Firemen should be taught, therefore, how to prevent the needless destruction of property. They should be made to realize that thousands of dollars' worth of goods may be saved by spreading a waterproof cover over a damaged roof or sweeping out water and débris. They should have salvage appliances—covers, brooms, sponges, mops and buckets—and know how to use them. Some fire departments have been doing systematic salvage work for years; others still believe that their task is ended when the fire is out.[17]

This chapter would not be complete without a few words about private fire protection. Large buildings are commonly equipped with elaborate fire-fighting apparatus, in addition to their standpipe systems. In many cities such apparatus is required by law. It should be required everywhere, for firemen cannot reach the scene of a fire until perhaps three minutes after the alarm has been sounded, and those first three minutes may be worth more than the next three hours. By far the most effective device for

[17] See "Salvage Work a Public Benefit," in the October, 1924, issue of *Safeguarding America Against Fire*, the official monthly of the National Board of Fire Underwriters.

interior fire protection is the automatic sprinkler. A sprinkler system consists of a network of pipes along the ceiling, with sealed sprinkler heads every few feet. When a fire breaks out anywhere in the building, the excessive heat melts the sealing substance of a nearby sprinkler head, and a stream of water is released. At the same time, in the better systems, an alarm is sounded. The sprinkler, with its automatic protection, should be supplemented by systematic patrol, for even the best mechanism occasionally gets out of order.

SELECTED REFERENCES

Cahalane, C. F., *Police Practice and Procedure,* New York, 1914.
—— *The Policeman,* New York, 1923.
Cleveland Foundation, *Criminal Justice in Cleveland,* Cleveland, 1921.
Croker, E. F., *Fire Prevention,* New York, 1912.
Crosby, E. U., Fiske, H. A. and Forster, H. W., *Handbook of Fire Prevention,* 7th ed., New York, 1924.
Flanagan, Luke, *Science in Fire Fighting,* New York, 1920.
Fosdick, R. B., *American Police Systems,* New York, 1920.
Graper, E. D., *American Police Administration,* New York, 1921.
Hill, C. T., *Fighting a Fire,* 2nd ed., New York, 1916.
International Association of Chiefs of Police, *A Guide for Preparing Annual Police Reports,* tentative draft, New York, 1928.
Kenlon, John, *Fires and Fire Fighters,* New York, 1913.
Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 281-357.
Moley, Raymond, ed., *Missouri Crime Survey,* New York, 1926.
Munro, W. B., *Municipal Government and Administration,* New York, 1923.
National Board of Fire Underwriters, *Fighting Fire by Modern Methods,* New York, 1924.
—— *Municipal Fire Alarm Systems,* New York, 1926.
—— *Standpipe and Hose Systems,* New York, 1928.
National Crime Commission, *Relation of the Police and the Courts to the Crime Problem,* 1928.
National Fire Prevention Association, *Suggested Ordinance Establishing a Bureau of Fire Prevention,* 1925.
Owings, Chloe, *Women Police,* New York, 1925.
Skehan, J. J. and Conway, J. P., *Practical Police Work,* New York, 1919.
Smith, Bruce, *State Police,* New York, 1925.

Thompson, G. N., *Preparation and Revision of Local Building Codes, Municipal Administration Service,* New York, 1927.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. XIV and XIX.
Woods, Arthur, *Crime Prevention,* Princeton, 1918.
—— *The Policeman and the Public,* New Haven, 1919.

Akers, K. F., "Comprehensive Program for Reducing a City's Fire Losses," *American City,* October, 1928.
Beyer, W. C., "The Hire of Firemen and Policemen," *Annals of the American Academy of Political and Social Science,* Vol. CXIII, 1924.
Corcoran, H. J., "Selection, Care and Operation of Fire Fighting Equipment," *Municipal and County Engineering,* April, 1926.
Schutt, H. G., "Advanced Police Methods in Berkeley," *National Municipal Review,* March, 1922.
Smith, Bruce, "Municipal Program for Combating Crime," *National Municipal Review,* January, 1928.
Swander, O. J., "Drafting the Building Code," *American City,* August, 1928.

CHAPTER XXIV

TRAFFIC

THE city dweller does not need to be told that present-day traffic congestion presents a serious problem. He is forcibly reminded of that fact many times a day. As a rider in street car or automobile he becomes accustomed, though not reconciled, to endless delays. As a pedestrian he accepts the necessity of taking his life in his hands every time he crosses the street. As a citizen he knows that a portion of the tremendous cost of traffic congestion will be reflected in his tax bill, for streets must be widened, obstructions removed, traffic regulated.

The number of automobiles is increasing at a rapid rate. In 1910 only about half a million motor cars were registered in the United States; by 1920 the number had risen to nine million. Today[1] American automobile registration is not far short of the twenty-five million mark, and is increasing at the rate of nearly two million cars a year! The United States has almost four-fifths of the world's supply of motor cars. It is estimated that in this country there will soon be one automobile for every four and one-third persons—in other words, an average of about one per family.

One of the most serious results of growing traffic congestion is the startling increase in the number of fatalities directly chargeable to motor car accidents. The death rate from automobiles has practically doubled during the last decade. In New York City alone more than one thousand persons are killed every year by motor vehicles. The automobile has become the greatest life-destroying agency of peace times.

Since traffic congestion takes such a heavy toll in time, money and lives, we are justified in considering its causes. What factors are responsible? Can they be eliminated or

[1] Figures as of December 31, 1928.

minimized? Or is the overcrowding of traffic on city streets likely to become worse as the years pass? The chief cause of increasing congestion, of course, is the increase in motor cars. But other factors must also be taken into account. Population is becoming more and more concentrated. Small towns are rapidly growing to cityhood, and great cities are becoming the cores of still greater metropolitan regions. Many streets are proving too narrow to meet their added burdens, perhaps because of the high buildings which flank them. Some streets are improperly designed or poorly paved, and add materially to the congestion on other streets by their failure to carry any considerable quantity of traffic. The mingling of fast and slow vehicles results in countless delays, for on a narrow street the slowest vehicle sets the pace for all the rest. Parked cars take up valuable street space, and force moving automobiles into narrower channels. Unnecessary obstructions are placed in the streets. A great deal of present-day traffic regulation is inadequate, serving only to make matters worse. And so the list might be extended almost indefinitely. Traffic congestion is due to a multitude of causes.

Many of these causes cannot be removed. It is impossible to put a stop to the production of motor cars, for example. And as for urban concentration, the cities will probably continue to grow, whether we like it or not. In recent years some decentralizing influences have been at work. A number of great manufacturing plants have been bodily uprooted, and transplanted outside the zone of congestion. Occasionally neighborhood shopping centers have become serious rivals of the downtown business districts. But the importance of these developments must not be unduly emphasized. In all our large cities the centripetal forces are still predominant. What, then, can be done to eliminate some of the other causes of traffic congestion—narrow streets, for instance? Some cities, such as St. Louis and Los Angeles, have already spent vast sums for street widening. In the downtown business districts, however, where property values are highest and congestion greatest, the cost of adding a few feet to the roadway may be almost

prohibitive. How about poor paving, street obstructions, absence of parking regulations? Most of these minor obstacles to a free traffic flow can be eliminated. It seems clear, however, that the major causes of traffic congestion are to a considerable extent beyond the control of any government. Congestion is here to stay; the most we can hope to do is to keep traffic moving through the streets at a reasonable speed, reduce somewhat the accident rate, and prevent congestion from becoming saturation.

The traffic problem certainly deserves intelligent consideration, but seldom receives it. As a rule, city officials in charge of traffic rely chiefly on guesswork and politics. They station traffic officers at points where the flow of cars *seems* to be heaviest. They erect warning signals at certain intersections when the people of those neighborhoods complain most loudly of accidents. They re-pave some streets and not others, according to the political influence of those whose property will be benefited. Very recently, however, a number of the more progressive cities have recognized the importance of securing an accurate and comprehensive knowledge of their traffic needs before attempting to formulate definite plans. Los Angeles, Chicago, Detroit, Pittsburgh, San Francisco and Boston have already completed detailed traffic surveys.

The Traffic Survey

A traffic survey involves the collection and interpretation of a vast amount of information. Traffic flow must be studied, in order to determine its volume, nature, origin and destination. How many vehicles pass an important street intersection during the course of a day? What percentages of them are motor trucks, buses, street cars, horse-drawn vehicles and passenger automobiles respectively? How many of them make left turns? Right turns? How fast do they travel? At what hours is traffic heaviest? Where did the vehicles begin their journeys? Where are they going? The answers to these questions can be obtained in a number of different ways—most commonly

by stationing counters at strategic locations, and equipping them with tally sheets. Particularly difficult is the problem of learning the origin and destination of each vehicle. This information may be secured by stopping the vehicles and asking the drivers—a procedure to be avoided under most circumstances—or by keeping a record of the license numbers of automobiles as they pass each counter. A census of standing vehicles must be taken. How long do they remain parked? Is nearby vacant land available for storage space? Where do accidents most frequently occur? What traffic regulations are in effect? Are they suited to local conditions? These questions are merely suggestive of the problems involved in the preparation of an adequate traffic survey. Unless careful consideration has already been given to the street system, it must also be included. When all the information has been collected, classified and analyzed, city officials are in a position to eliminate guesswork.

Increasing the Street Capacity

One fact stands out clearly as the result of every traffic survey: the streets are not able to carry effectively the volume of present-day traffic. If possible, therefore, street capacity must be increased. Perhaps the most obvious way to increase the capacity of a street is to widen it. This can often be done rather easily and cheaply when the land on either side has not yet been built upon. But the erection of expensive buildings greatly complicates the problem. They cannot be condemned and torn down except at excessive cost. Sometimes additional roadway space is obtained by narrowing the sidewalks. As a rule, however, this plan is unsatisfactory, for if pedestrian traffic is confined within too narrow limits it will inevitably overflow into the roadways, thus retarding the movement of vehicles and increasing the likelihood of accidents. A city is not justified in reducing its sidewalk space unless the existing space is in excess of probable future pedestrian demand—a state of affairs seldom found.

It is possible, of course, to establish new building lines some feet back of the building lines now in force. Then, as old buildings are torn down, new structures must conform to the new lines. After a period of many years the entire street front will be moved back, and the space thus gained can be used for wider streets. But this is at best a very slow process. Some recently erected structures may stand for half a century or more. And in the meantime the uneven building line thus created may prove unsightly. Moreover, there are legal complications in many cities.

In recent years a number of suggestions have been made for arcading the sidewalks—that is, moving them back until they come beneath the upper stories of abutting buildings, which are supported at the curb by rows of pillars. The entire space between buildings can then be used by vehicular traffic. On most built-up business streets this plan necessarily involves a large outlay. The cost of construction is considerable, and to it must be added the expense of compensating property owners for loss of floor space. But even then arcading is a great deal cheaper than condemning entire buildings. It has some other advantages, also. It helps to separate pedestrian and vehicular traffic, and protects pedestrians from the elements. As yet arcading has been little used in this country, though it has been widely discussed. But as the pressure of traffic increases, and cities find the street space of their downtown districts increasingly inadequate, they may turn to arcaded sidewalks as a desirable means of relief.

Some thought has been given to double-deck streets. Chicago has recently completed a two-level thoroughfare [2] at a cost of fifteen million dollars, reserving the upper level for fast-moving traffic. New York has decided to construct a similar highway along the Hudson River waterfront.[3] But such stupendous and costly engineering projects are not for the average city of today. They are last-resort measures, to be applied only when the pressure of traffic

[2] Wacker Drive.

[3] The purpose of this highway is to connect the Holland Vehicular Tunnel approach with the southern end of Riverside Drive.

congestion has become intolerable. That they will yield benefits in excess of their cost is not at all certain, except under special conditions.

In order to increase the capacity of a street, it is not always necessary to make it wider or to add a second traffic level. Sometimes the same effect may be obtained by the less difficult and much cheaper method of removing physical obstructions in the roadway. Railroad grade crossings, for example, are a constant source of delay, irritation and accident, and most of the larger cities have undertaken extensive programs for their elimination. Under some circumstances it may prove desirable to remove surface car tracks or elevated pillars from very narrow downtown streets. In a number of cities, private venders of fruit, vegetables, candy and newspapers are permitted to maintain their stands in the roadway space, and much more commonly they make use of the sidewalks. Thus they continuously obstruct the flow of traffic, and give no equivalent public benefit in return. They should be denied the right to use the city's property for their private business ventures.

Many a street fails to carry its proper share of the traffic load because its width is not uniform. It may be a sixty-foot thoroughfare almost its entire length, but narrow down to forty feet at one or two places. Under such circumstances its carrying capacity is materially reduced, for all the vehicles using it must pass through the bottle-neck thus formed. The elimination of bottle-necks in street construction often proves to be a relatively inexpensive way of increasing street capacity.

Every careful study of traffic conditions shows that a large part of the congestion on downtown city streets is caused by through traffic, which is merely using these streets for the purpose of reaching points beyond. A great deal of this traffic could readily be directed to other roads, so that it would merely skirt the overcrowded urban centers, instead of passing directly through them. When the average motorist drives from one city or one neighborhood to another, he does not deliberately try to visit all the

points of congestion lying between. He would rather avoid them. But he knows of no well-paved, convenient alternate routes. In all probability the alternate routes are neither well-paved nor convenient. It is very important, therefore, that municipal officials devote time and thought to the problem of diverting through traffic from the busiest areas. In most cases they will find suitable roads already built, and needing only repaving, or possibly widening in places. Sometimes all that is necessary is the erection of proper directing signs. Care must be taken, of course, not to select alternate routes which are very much longer than the direct lines of travel. Motorists will not go long distances out of their way, even to secure safer driving conditions and greater freedom from delay. Many cities are now turning to through routes as a partial solution of their traffic problems. Often they are handicapped by the opposition of their business men—especially the merchants whose stores front on the main streets. But business men are gradually learning that a multitude of motor cars does not necessarily guarantee prosperity, and that excessive congestion merely serves to drive away their regular customers—the local residents.

Street intersections are the centers of traffic trouble. They are the places where congestion becomes most acute, and accidents most frequently happen. If we could eliminate all street crossings, we should be in a fair way to solve one of the most important phases of the traffic problem. Occasionally it is possible to separate two streams of cross traffic by depressing or elevating one of the roadways, but such a plan is usually so expensive that it can be justified only under exceptional conditions. The overwhelming majority of street intersections must remain, and at an ever increasing number of them there must be some form of traffic control.

Traffic Police

The earliest form of regulation was by policemen, who stood in the middle of the street and indicated with motions of their arms whether traffic was to go or stop.

Later they were supplied with semaphores. This plan is still used in many places. In at least one respect it is superior to the more recent systems of mechanical control; it gives a degree of flexibility which no mechanism can possibly equal. A competent traffic officer, stationed at a busy corner, can take advantage of variations in the volume of traffic on the intersecting streets, and give to each street the proportion of time best suited to its requirements at the moment. He can send loaded street cars on their way with a minimum of delay. He can take whatever action is needed in times of emergency—a very real advantage, for no traffic light yet invented will automatically flash green at the approach of a fire engine or ambulance.

It must be admitted, however, that control by traffic officers has proved unsatisfactory in a number of ways. At busy downtown corners it frequently results in unnecessary delays to traffic, because a policeman stationed at any intersection finds it impossible to co-ordinate his work with the efforts of other policemen stationed at neighboring intersections. And so a motorist may travel for a mile or more along an important thoroughfare, being forced to stop at almost every street crossing. Should he succeed in passing several traffic officers in succession without receiving the signal to stop, he must attribute his good fortune to chance. Then, too, it often happens that a single glance is not sufficient to show whether an officer is on duty. He may be in the middle of the street or at the curb, and the motorist must spend valuable seconds looking for him. As a result, the officer's signals may not be so promptly obeyed. If the policeman is placed on a raised platform somewhat above the level of traffic, or even if he is given a semaphore, he can be located more quickly by approaching motorists. But the necessity of remaining at one spot limits his ability to keep traffic moving. His regulation thus loses something of its flexibility.

An automatic traffic control signal has at least one very obvious advantage over a policeman—its only duty is to direct traffic. A traffic policeman, on the other hand,

has a dozen different things to do. He must answer correctly and courteously the questions put to him by motorists and pedestrians, for he is an official information bureau. He must reprove traffic violators, and perhaps arrest them. He must hurry to the scene of a nearby fire or accident. He must return the greetings of all friends and acquaintances. In the meantime, traffic receives very little or none of his attention.

The disadvantages of control by traffic officers are especially noticeable when inexperienced or inefficient men are detailed to the work. Often they hamper the traffic flow more than they help it. The modern traffic control signal is ready for efficient service when it leaves the factory, but many a policeman is badly in need of additional training when he receives his first traffic assignment. Even a competent and experienced man needs several days to become familiar with the special problems of an intersection. Then there is the element of cost, which must not be overlooked. Control by traffic officers is generally the most expensive of all types of regulation. It costs far less to operate the most expensive system of automatic traffic control signals twenty-four hours a day than to keep policemen on duty eight hours.

Automatic Traffic Regulation

Small wonder, therefore, that the use of electric signals has become widespread. Even the smaller cities are adopting systems of automatic traffic control. The rapid growth of the movement has been since 1923, though experiments with traffic lights were made as early as 1910. At first there was no attempt at co-ordination, and even today the vast majority of automatic traffic signals are isolated—that is, operated independently of other signals. Traffic control by means of electric signals is superior to regulation by policemen in a number of respects. Perhaps most important of all is its lower cost. There are other advantages, however. A traffic control signal has greater attention-compelling value than a policeman. It may not be able to command such consistent obedience,

but it is visible at a much longer distance. It is always on the job, handling traffic with uniform regularity, unless out of order. And properly constructed signals, properly maintained, rarely get out of order. At a complicated intersection—where three or more streets meet, for example—a traffic control signal may be so operated as to allot time to the different traffic flows more satisfactorily than even an experienced traffic officer.

Of course, some traffic signals are not at all satisfactory. They may be so poorly designed that they cannot readily be adjusted to the needs of the intersections they are supposed to protect. They may be placed so high above the heads of motorists, or so far to one side of the roadway, that they readily escape notice. Burned-out lamps may not be replaced promptly. Lenses may be left uncleaned for long periods. It frequently happens that a signal is placed at a street crossing where there is not a sufficient volume of traffic to warrant it. In smaller communities, especially, there is a tendency to measure civic progress in terms of traffic signals. Often a traffic control signal is improperly timed. It gives an excessively long *go* interval to one street, and an unreasonably long *stop* period to the other. One of the chief difficulties with traffic signals is that in many cities obedience to them is not strictly enforced. Motorists soon learn that they may drive past red lights with impunity, provided only they take care to keep out of the way of cross traffic. Under such circumstances, automatic signals are worse than useless. Policemen should be regularly assigned to the task of enforcement. This does not imply that for every signal there should be a nearby traffic officer, on the lookout for violators twenty-four hours a day. But it means that every intersection where a signal is placed should receive the occasional attention of enforcement officers. Automatic regulation will not prove effective unless the signals are properly designed, placed, timed and maintained, and motorists are compelled to obey them.

Even under most favorable circumstances control by means of traffic signals has some serious limitations.

Every signal must be properly maintained. Occasionally it must be entirely overhauled, and for this work skilled mechanics are necessary. Bulbs must be replaced at regular intervals. The controller or timing mechanism must be oiled, greased and sometimes repaired and adjusted. If all these operations are not regularly performed, the signal cannot be expected to give maximum service. Then, too, the average traffic signal stationed at the intersection of two streets normally allots a constant amount of time to each street. For example, if the timing mechanism is so adjusted that north-south traffic receives the *go* signal forty seconds to every twenty seconds for east-west traffic, this ratio usually remains constant throughout the entire day. It could be changed by re-setting the timer, but this is a hand operation, and is seldom done. Now it is quite obvious that the time needs of any two streets may vary greatly during a period of twenty-four hours. In the early morning and late afternoon, as cars travel between the center of the city and the suburbs, virtually all traffic may be north and south. During the middle of the day a steady stream of cross-town traffic may be moving east and west. To ignore these differences, as is usually done with automatic control, is to fix traffic regulation in a rigid mold.

One way to remedy this state of affairs, especially at the intersection of a heavily traveled thoroughfare and a less important street, is to install a self-service signal. Such a signal gives the green *go* light continuously to the principal street in the absence of side street traffic, but when a vehicle on the side street reaches the intersection it has the power to turn the signal in its favor. This it may do in a number of different ways, according to the type of equipment—for example, by stopping on a sensitized metal plate set in the pavement near the right curb. Side street vehicles cannot hold the signal in their favor indefinitely, however. After a short interval, green shows once more for thoroughfare traffic, and may not be changed until the thoroughfare has been given an adequate *go* period.

The self-service traffic control signal, though developed only a short time ago, has already proved quite popular. It will probably be adopted by many cities. But obviously its effective use is limited to certain intersections where special conditions prevail. Students of the traffic problem are justified, therefore, in disregarding it when they make the general assertion that signals operated independently of one another unnecessarily delay the traffic flow at times. A signal may flash green to let east-west traffic proceed, when in fact there are no cars waiting for the signal. It may turn red at the approach of a dozen vehicles. If the lights are co-ordinated, however, unnecessary waiting is reduced to a minimum. For human ingenuity can make mechanism almost human in its response to human demands.

One of the chief obstacles to satisfactory automatic control is the diversity of meanings given to the amber, yellow or white light. This light indicates *left turn* in some cities. Sometimes it is used merely as a caution signal, warning vehicles and pedestrians that the lights are about to change. Or it may signify that all approaching traffic is to stop while the intersection is cleared. Frequently it is reserved for exclusive pedestrian periods. Occasionally it is used in connection with red or green lights, with varying significances. In Boston, for example, the combination of red and amber indicates that all vehicles must wait for pedestrians. Many a city uses the amber for different purposes at different intersections. Thus Philadelphia has amber for *caution* at some crossings, and for *left turn* at others. The natural result of all these variations is universal confusion. The motorist, especially the visitor from another city, does not know how to interpret the amber light. Usually he interprets it as a signal to do whatever pleases his fancy. One traffic officer expressed the attitude of the motoring public when he said: "Green means go, red means stop, but amber means: *everybody try to beat the light!*" A few cities use only two colors —red and green. But most traffic experts agree that the

amber light is the best device yet tried for clearing intersections.

The earliest traffic signals always operated independently of one another. But after a time it was suggested that all the signals along a main traffic artery should flash *go* together and likewise *stop* together, so as to permit traffic to continue without interruption for a number of blocks at a fairly high rate of speed. At first this synchronization of traffic signals was attempted by means of flags and semaphores; today, where the plan is tried, all the lights on a street are wired so as to permit them to change together automatically. The apparent advantage of synchronized control is that it speeds up traffic. There is a closer relationship between traffic lights and traffic needs than under a series of isolated signals. But the plan in practice has revealed a number of serious defects. It has materially increased the accident hazard, for it encourages speeding. The motorist soon leans that the faster he goes, the more intersections he will be able to pass before the signal flashes red. Moreover, the *go* period is almost always made very long on the main thoroughfare. This is necessary, for otherwise nothing would be gained by synchronizing the lights. Yet the side-street motorists and pedestrians, waiting to cross the principal street, find themselves severely penalized. Usually they are delayed an excessively long time. The result is a tendency to violate the law. Motorists approaching the main thoroughfare just as the light is flashing against them try to get across before the change is complete. Pedestrians cross the street without waiting for their *go* signal. Accidents inevitably occur. One of the most surprising facts about synchronized control is that it permits only a very low *average* speed. Anyone watching the cars in motion is likely to come to the conclusion that they average at least twenty-five miles an hour. But instead their speed does not exceed eleven or twelve miles an hour, if all stops are considered.[4] The intervals of waiting destroy most of the

[4] This fact was demonstrated by a series of tests recently made along Michigan Boulevard, Chicago.

value of the long *go* periods. When street cars are operated on thoroughfares which have synchronized control, the peak power demand is materially increased. As the lights flash green, all the standing street cars start simultaneously, thus placing a heavy burden on the power plant. For these reasons synchronized systems are seldom installed today, though many of them are still in use.

During the last few years emphasis has been placed on the importance of keeping traffic continuously in motion. One way to do this is to wire the lights on any thoroughfare so that all of them change at exactly the same moment, as under synchronized control, but alternate as to color. When one signal turns green, the signal a block away turns red. At the intersection beyond is another green light, and beyond it is still another red. An occasional variation of this plan is to group the signals together by twos or threes, each group flashing a different color from the group on either side. Whether the lights alternate singly or by groups, the principle is the same. Continuous movement is made possible. Take, for example, the case of a motorist who starts at some point along the thoroughfare at the beginning of a *go* period. If he travels at the proper speed, each succeeding light will turn green as he approaches it, and thus he may ride the entire length of the system without the necessity of making a single stop. If, however, he goes too fast, he will be detained at each crossing. Under such a system it does not take the average driver long to learn that speeding is a losing proposition. The time cycle can be adjusted, of course, to whatever speed it is desired to enforce.

It has already been said that the motorist may pass every light without stopping, by proceeding at the proper speed. But this does not always mean that he must travel the entire length of a street at a *uniform* rate. On the contrary, it may imply that he must cover the distance between intersections at varying rates of speed—if blocks are not of equal length. Let us take an illustration. Suppose the time cycle—that is, the time it takes a signal to complete its round of changes, from green to amber to red

to amber, and back again to green—is forty seconds, the green and red periods being equal in length. Neglecting the amber for the sake of simplicity, the motorist is then expected to cover each block in exactly twenty seconds, so that he may always keep pace with the green light. But if one block is longer than its neighbors, he must travel a correspondingly greater distance, though his twenty second time allowance never varies. A twenty mile speed may prove exactly right for one block, but entirely too fast or too slow for the blocks that follow. For this reason, the plan fails to give complete satisfaction unless blocks are approximately equal in length. It has another serious limitation, also—it virtually necessitates an equal distribution of time between the main thoroughfare and the cross streets. This can be readily understood if it is remembered that every signal along a street changes at the same moment. Some turn red while others turn green, but the change is simultaneous. Now suppose we select any crossing along the thoroughfare, and decide to give seventy per cent of the total time cycle to the main street *at that one point,* allotting but thirty per cent to the intersecting street. It is obvious that under such circumstances the signals one block distant in either direction must give the *go* signal to main street traffic only thirty per cent of the time, reserving the remainder for cross traffic So the only practical solution of the difficulty is to make the *stop* and *go* periods of equal length for all traffic at every intersection. Such an arrangement is necessary, but not very satisfactory. For it seldom happens that the amount of cross traffic is exactly equal to the amount of main street traffic. At one intersection, where thoroughfare crosses thoroughfare, it may actually be more; at another it may be much less.

This plan of automatic traffic control is commonly called the *limited progressive* system. It permits a progressive or continuous movement of traffic, but its successful use is limited to streets which have uniform cross traffic and blocks of approximately equal length. Sometimes it is known as the *stagger* system. Under ideal conditions it is

fairly effective. It not only keeps traffic in motion at a reasonable rate of speed, but permits the use of a rather short cycle, so that long delays are eliminated. Then, too, it places no heavy peak burden on the power company, as does synchronized control.

The most recent plan for keeping traffic continuously in motion is the so-called *flexible progressive* or *ripple* system, which was first used in Chicago in 1926. It has since been copied by a number of other cities. Unlike limited progressive control, it can be used quite satisfactorily with blocks of varying lengths. Still more important, the distribution of time between main street and cross street at each intersection can be adjusted to the needs of that intersection. Signals do not change simultaneously. To understand exactly how the plan works, let us take the case of an automobile starting at any corner just as the green light appears. Twenty seconds, we assume, are required to reach the next corner at a speed of eighteen miles an hour. If the system is adjusted to a speed of eighteen miles an hour,[5] then just as the motor car reaches the next corner the light turns green, permitting it to continue its journey without a pause. It may be that twenty-four seconds will be needed to reach the third corner, because of a longer block. So the third signal flashes green exactly twenty-four seconds later than the second. Perhaps no two signals along a street change color at the same moment, but they all have two things in common—they are adjusted so as to permit the continuous movement of traffic, and they have the same time cycle, or, in rare instances, multiples of an original cycle. It is obvious that if the time cycle were not the same or in multiples for all the lights in a system, the result would be chaos, for the proper time relationships between intersections could not be maintained. This does not mean, however, that the cycle must be divided in exactly the same manner at every corner. At one street cross traffic may be given half of the total cycle; at the next intersection it may receive only one-fourth. The amount of traffic on each street is the de-

[5] It can be adjusted, of course, to any desired rate of speed.

termining factor, as it should be. The flexible progressive system removes most of the objections to automatic traffic regulation. But it is very expensive, and requires supervision and maintenance of a high order.[6]

When three or more streets intersect, traffic is very likely to tie itself into tangles which can only be unraveled with difficulty. One way to solve the problem is to place an obstruction—perhaps a grass-covered or paved circle or square—in the center of the intersection, and then require all vehicular traffic to pass around the obstruction in a counter-clockwise direction. Many cities already have small grass plots at places where several streets converge. Washington, for example, is famed for its circles and squares, which were designed to beautify it, but serve also to guide the movement of its automobiles. Where such traffic barriers do not exist they can readily be installed, if the intersection is sufficiently wide. Adequate space can sometimes be obtained by moving back the corners of streets. This method of regulating traffic is known as rotary control. It has the advantage of keeping vehicles constantly in motion, without the use of mechanical devices. But it pays scant heed to the pedestrian. It makes no provision for a clear intersection period, and therefore persons wishing to cross the street must do so against moving traffic. The suggestion has recently been made that rotary traffic control should be used, not only where three or more streets converge, but at every ordinary two-street intersection of sufficient width.[7] There is little likelihood, however, that this proposal will receive serious consideration.

Left turns are a principal cause of delays and accidents. When a motorist turns to the left at the intersection of two streets on which traffic is permitted to flow in both directions, he must cross at least two traffic lanes and swing

[6] This discussion of traffic control systems is taken largely from Burton W. Marsh's article, "Traffic Control," in the September, 1927, volume of the *Annals of the American Academy of Political and Social Science*, pp. 90-113.

[7] See *Fundamentals of Highway Traffic Regulation*, by Wm. Phelps Eno, pp. 53-73.

into another. While waiting for an opportunity, he delays traffic in the lane he is leaving. So some cities have prohibited left turns at busy intersections. As a rule, such a prohibition produces unfortunate results. It gives immediate and obvious relief to the crossing where it is applied, but merely increases the congestion somewhere else. Motorists are forced to drive many blocks out of their way, adding to the traffic burden of neighboring thoroughfares. There are certain intersections, of course, where left turns should be forbidden because of special conditions. But before the prohibition is made, care should be taken to learn whether these special conditions exist. The best way to reduce left-turn accidents and left-turn traffic tangles is usually to require each automobile to remain in its proper channel while turning, instead of cutting the corner and getting directly into the path of oncoming traffic. This can readily be done by means of roadway markings or properly placed traffic stanchions.

Speed Limits

One of the essential phases of traffic regulation is the fixing of automobile speed limits. These limits vary greatly from city to city. In the congested business area they are sometimes fixed as low as eight miles per hour, and sometimes as high as twenty or even twenty-five. The maximum is usually fixed somewhat higher for residence districts than for the downtown section, and still higher for the open road. The tendency of recent years has been toward greater liberality. Nearly all speed limits have been raised, and in a few instances the state maximum for highways outside of city boundaries has been abolished, "a careful and prudent speed at all times" being required instead. Even where harsh and unreasonable speed limits are still found on the statute books, they are seldom enforced, except perhaps in a few small towns whose officials are chiefly interested in the collection of fines. There can be no doubt that the speed limits established years ago are no longer applicable to modern traffic. On the other hand, it is at least possible that the speed provisions of some

recently adopted traffic codes are too liberal. Several large cities now permit motor cars to travel as fast as twenty miles an hour, even in the heart of their most congested districts. Yet a number of independently conducted investigations tend to show that on crowded streets the rate of maximum efficiency—that is, the rate which permits the greatest number of vehicles to pass a given point during a given period of time—is probably about fifteen miles an hour. When the speed of automobiles is increased to twenty miles, the spacing between them must also be increased, in order to prevent an excessive number of accidents. The net result is apt to be a marked reduction in the carrying capacity of congested thoroughfares. And even with a greater spacing between cars, accidents may occur more frequently. The difficulty of stopping becomes rapidly greater as the speed increases; at twenty miles per hour the number of feet required to stop is nearly twice as great as at fifteen. Outside of the congested districts, of course, materially higher speed limits are desirable. When automobiles do not follow one another in endless procession the problem of spacing disappears. Some cities are considering the possibility of fixing the minimum as well as the maximum speed on main thoroughfares.

The enforcement of speed laws presents a difficult problem. Thousands of normally law-abiding persons deliberately ignore speed regulations. Violations occur every hour of every day on every important street. They occur, moreover, at a time when the offenders are in rapid motion, which makes it especially difficult to determine the exact degree of each offense. Most commonly motor-cycle police are charged with the duty of speed law enforcement. The ordinary two-wheeled motor-cycle is fast, and quite effective on dry pavements. On wet streets, however, it is virtually useless. And even under most favorable conditions the sound of its motor is a warning signal to motorists. Moreover, when it is ridden by a single officer, magistrates may find it necessary to balance his word against the testimony of several automobile occupants.

In order to overcome these difficulties, a number of cities have adopted light but fast motor cars for their speed enforcement units. Sometimes motor-cycles with side car equipment are used. The officers then travel in pairs. Years ago it was a common practice to assign policemen in civilian clothes to the task of detecting speeders. This plan had its advantages, but proved very unpopular. Motorists resented spying, as they called it. So today regularly uniformed police are used in almost every jurisdiction. Popular agitation has also forced the abolition of the so-called speed trap in many cities. A speed trap is simply a section of highway which has been measured, so that the officer on duty can tell the exact speed of every motor car by noting the number of seconds it takes to travel from one end of the trap to the other.

Practically every large city, and many smaller ones, designate certain streets as one-way streets. This plan works well if the streets are carefully selected. Virtually every street which is so narrow that it carries but two streams of traffic should be marked one-way. So should every three-traffic-lane street in the congested district, unless special conditions exist. The presence of a one-way surface car line in the roadway is usually a sufficient reason for requiring all vehicles to travel in the same direction. When one-way streets are used, however, they must be plainly marked. Otherwise they may add to the congestion of the central section, instead of relieving it. It is important, also, that vehicles prohibited from traveling a certain direction on one street be given the opportunity to go in that direction on a nearby street.

In a number of cities, some of the main thoroughfares are designated as boulevards, or arterial highways. Every vehicle, before crossing or turning into one of these thoroughfares, is required to come to a full stop. In all probability the number of accidents is thus materially reduced, and a relatively high rate of speed can more safely be maintained on the main streets. Boulevard stops, so called, are becoming increasingly popular.

The Parking Problem

One of the most serious obstacles to the free movement of traffic is the parked vehicle. When parking is permitted on both sides of a street, the number of traffic lanes available for moving traffic is reduced by two. Parked cars are a hindrance to the safe passage of fire-fighting equipment through the streets, and at times they interfere with the actual fighting of a blaze. They add greatly to the likelihood of accidents in which pedestrians are involved, because men and women on foot are prone to dart out from behind standing vehicles into the path of oncoming cars. Every automobile standing in front of a store makes it harder for persons in other automobiles to reach that store, and increases the probability that they will go elsewhere to do their shopping. It also makes more difficult the delivery of goods by trucks. Yet for many years the merchants of the congested district in almost every large city frowned upon the proposal to restrict parking. They believed that even one- or two-hour limits would injure their trade. More recently their attitude has changed. They have begun to realize that unlimited parking does them more harm than good.[8] Virtually all large cities restrict parking in their downtown districts. Some of them prohibit it altogether. There is no doubt of their right to impose such limitations or prohibitions as they see fit. Over a century ago Lord Chief Justice Ellenborough of England declared: "The king's highway is not to be used as a stable yard." This statement has been quoted approvingly time after time by American courts.[9] Whether parking should be prohibited at all hours, except perhaps in a few of the most congested sections of the largest cities, is extremely doubtful. But students of the problem seem generally agreed

[8] Recently, when several hundred shopkeepers in the larger cities were circularized by the U. S. Department of Commerce, only a handful of them reported that they favored unrestricted parking. See "Retail Store Problems," 1926 publication of the Domestic Commeree Division of the Department of Commerce.

[9] See, for example, the case of Cohen *v.* Mayor, 113 N. Y. 532.

that it should be forbidden in the downtown districts during the periods of peak traffic—perhaps between eight and nine-thirty in the morning, and between four-thirty and six in the evening. During the remaining day hours, downtown parking might well be limited, say to thirty minutes or one hour. One hour is the time permitted in many cities. It affords a reasonable opportunity for shopping, but does not authorize anyone to monopolize street space for long periods. The chief difficulty with regulations which limit parking instead of prohibiting it is that no way has yet been found to enforce them effectively unless an excessively large personnel is used. In the future, as traffic congestion becomes greater, parking limitations must inevitably become less liberal. It may become necessary to forbid parking altogether during business hours in the downtown sections of all large cities. Some way must be found, therefore, to meet the demands of motorists for storage space. Central city garages and conveniently situated vacant lots may offer a partial solution. Parking facilities just outside the zones of heavy traffic, perhaps operated by the traction companies at the terminals of their high-speed lines, may also be of value. The merchants of the main business district can properly be charged with the duty of finding off-street storage space for the automobiles of their customers. Many of them have already accepted this responsibility.[10]

Many cities have recently given attention to the matter of pedestrian traffic control. Their codes frequently provide that persons on foot must cross streets only at crossings, that they must look before stepping into the roadway, that they must obey the signals of traffic officers. Only in a few instances, however, have these regulations been strictly enforced for any length of time. Police and magistrates have sometimes co-operated in vigorous anti-jay-walking campaigns, the police arresting offenders and the magistrates fining them. The result has usually been

[10] See Harold S. Buttenheim's article, "The Problem of the Standing Vehicle," in the September, 1927, volume of the *Annals of the American Academy of Political and Social Science.*

to decrease the number of accidents and increase the street capacity. But in almost every city strict enforcement has caused a storm of popular disapproval, and the police have been virtually forced to stop making arrests.

The traffic problems of American cities are complicated by the fact that their traffic codes lack a reasonable measure of uniformity. Motorists traveling from city to city are likely to find an entirely different set of regulations every time they cross a boundary line. They may run afoul of the police at any moment, and they are fairly certain to contribute more than their share to the total number of accidents. Several attempts have been made to bring about a greater degree of standardization. The most promising of these are the uniform motor vehicle code and the model municipal traffic ordinance prepared by committees of the National Conference on Street and Highway Safety. The motor vehicle code or its equivalent has already been adopted, in whole or in part, by a number of jurisdictions, and the model traffic ordinance is receiving serious consideration.

SELECTED REFERENCES

Eno, William P., *Fundamentals of Highway Traffic Regulation,* New York, 1926.

—— *Simplification of Highway Traffic,* New York, 1929.

McClintock, Miller, *Street Traffic Control,* New York, 1925.

Metropolitan Life Insurance Company, *The Traffic Problem,* New York, 1926.

Regional Planning Federation of the Philadelphia Tri-State District, *By-Pass Highways for Traffic Relief,* Philadelphia, 1927.

U. S. Department of Commerce, *Reports of the National Conferences on Street and Highway Safety,* Washington, 1924, 1926.

—— *Retail Store Problems,* Washington, 1926.

Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XX.

Rose, S. E., "Handling Traffic Violations Outside of Court," *National Municipal Review,* March, 1925.

The Regional Plan of New York and Its Environs has a number of worth while studies dealing with various phases of the traffic problem.

Vol. CXXXIII of the *Annals of the American Academy of Political and Social Science,* September, 1927, is entitled *Planning for City Traffic.* Vol. CXVI, November, 1924, is devoted to *The Automobile: Its Province and Problems.*

CHAPTER XXV

EDUCATION AND RECREATION

Education

A CENTURY ago free education was generally regarded as a form of charity, to be doled out to the poor like meat or flour. In the year 1830 only a handful of cities had regular school systems supported by public taxation. But gradually the idea that education ought to be free and compulsory secured widespread acceptance. By 1850 virtually every large city of the North and West had made more or less elaborate provision for public schools. Southern cities fell into line more slowly. At first the city schools differed in no essential respect from the schools of the rural sections. They were of the ungraded kind, one teacher to a school. Each neighborhood had its own school. Then came consolidation. Children from different neighborhoods were brought together, and assigned to grades. High schools were organized. The lay boards of school directors or school trustees, instead of dealing directly with every phase of educational activity, as they had done for decades, employed professional educators to serve as municipal superintendents of education. This injection of a professional element into school administration did not become general until about 1890.

Within the last few decades educational costs have mounted rapidly. The larger cities of the United States —those with populations of thirty thousand or over—now spend slightly more than six hundred million dollars a year for the maintenance of their school systems, and another two hundred million for the construction of school buildings. That is very nearly twenty dollars for every man, woman and child counted among their residents.[1]

[1] *Financial Statistics of Cities*, 1926.

Education costs more than police and fire protection, health conservation, sanitation, recreation and charities combined. It takes from one-fourth to one-half of every dollar contributed by the municipal taxpayer.

The huge cost of public education need occasion no surprise, for educational standards are constantly being raised. Teachers are required to have more training, and are paid higher salaries. Modern school buildings are very different from the traditional red schoolhouses of another generation. The scope of public education is constantly expanding. Years ago the curriculum embraced very little beyond the three R's, but after a time a full six-year course was established. Then came the public high school with its additional two- or three-year course. The elementary school period was extended to eight years, and the high school period to four. Many of the larger cities now have junior colleges, providing two full years of college-grade instruction at public expense, and a few, notably New York, Cincinnati, Toledo and Akron, have full-fledged four-year city colleges or universities.

The Changing Concept of Education

Together with this development has come a change in the concept of education. Until the early years of the present century the curriculum always followed the same general plan. Aside from a few fundamentals, such as English and arithmetic, it contained subjects which were chiefly of cultural value. Its chief purpose was to prepare boys and girls for college, ignoring the obvious fact that the overwhelming majority never went to college, and had no conceivable use for pre-college training. When children left school and went to work, as they usually did not later than the close of their elementary school careers, they found themselves totally unprepared to engage in any occupation. Eventually men began to ask why the public school system of every city should not offer courses of training designed to prepare pupils for specific vocations. Modern voca-

tional education was developed as a result of these inquiries. The first step was the manual training high school, which differed from other high schools only in that it offered such courses as woodwork and carpentry. More recently comprehensive vocational programs have been evolved, and now virtually every large American city provides specific industrial training in its public schools. Sometimes the vocational courses—in plumbing, electrical installation, machine shop practice, printing, dressmaking, millinery, stenography and the like—are offered as a substitute for all or a part of the work of the seventh and eight years; sometimes they are designed to replace regular high school studies. In many cities vocational training is given in part-time day schools for those who have already entered industry. Night vocational schools are also becoming popular. Adults as well as children are benefiting by the new type of training.

During recent years the federal government has stimulated vocational education by granting considerable sums of money to the states for the payment of vocational teachers' salaries. Some of this money is used in rural areas, but a great deal of it goes to support the vocational schools of the cities. Every state which accepts the federal gift is required to match it dollar for dollar, and in this way state expenditures are materially increased. State standards are improved, for every state plan must meet the approval of federal officials. Federal money is also paid to the states for the re-education of persons who have been incapacitated by injury or disease. Similar conditions are imposed. The federal government's recently acquired habit of buying the right to supervise state and local activities is regarded by some critics as a violation of the principle of local self-government. Others believe it to be the only practical way of securing satisfactory minimum standards for the entire nation. But this controversy need not concern us as students of municipal government.[2]

[2] For a description and evaluation of the federal subsidy system, see the author's *Federal Aid*.

Practically every city[3] receives some money from the state treasury for the support of its schools, though the state subsidy is usually but a small fraction of the sum raised by local taxation. In some states—Virginia, for example—this money is apportioned on the basis of the number of children of school age. In others it is given partly as a reward for local effort. Thus Illinois makes additional payments if teachers are normal school graduates. A number of states, such as Illinois and Pennsylvania, treat their rich communities less generously than their poor ones, so as to obtain a nearer approach to equalization of educational opportunity.

The question naturally arises at this point: What degree of control should state authorities exercise over local school systems? Education is more than a purely local problem. The state is vitally interested in guaranteeing to every one of its inhabitants the opportunity to secure an adequate preparation for his life work. It cannot afford to give each community free rein, for the result would be local anarchy. Some school systems would be brought to a high pitch of efficiency, while others would speedily degenerate. On the other hand, the people of every city are vitally interested in their local educational problems. The school system is a matter of local concern, and a source of local pride. It would be a serious mistake to vest all control over school affairs in state officials. The best plan, apparently, is to permit each community to establish and maintain its own school system, but to retain in state hands the right to fix and enforce minimum standards. State subsidies for education could be used, much more widely than at present, as an inducement to exceed the minimum.

During the last few decades the traditional scheme of education has been modified in a number of important respects. There has been a growing tendency to provide different kinds of schools for varying educational needs,

[3] The money is not usually paid to municipal officials, but to the officials of state-created "school districts," whose boundaries are very nearly or exactly conterminous with city boundaries.

instead of trying to fit all students to the same pattern. In the larger cities especially are now found special schools of every description. There are schools, or classes in schools, for especially gifted children, and also for children of sub-normal intelligence, for blind, deaf and crippled children, for children with speech defects. Open-air schools meet the needs of tubercular and anemic children. Then there are vacation schools for backward boys and girls who need special instruction, and for those who desire to move forward more rapidly. To the list must also be added over-age classes, non-English-speaking classes, ungraded classes. Many cities have special art schools. The problems of adult education are just beginning to attract widespread attention. Evening schools appeal to students of all ages—the boy who has just completed his elementary education and the man who never had formal training.[4]

One of the most significant developments of recent years in the field of education is the junior high school. As recently as 1911 there were only three full-fledged junior high schools in all the cities of the United States, though a small number of other municipalities had made experiments along similar lines. Today virtually every large city has one or more junior high schools. Instead of the traditional eight-four grade combination—an elementary school course of eight years and a high school course of four—there is now commonly a grade combination of six-two-four or six-three-three. In other words, the junior high school takes the place of the seventh and eighth grades, or perhaps the seventh, eighth and ninth grades. Sometimes it combines grades seven to ten, eight to ten, or seven to twelve, and in a very few cities it represents merely the work of the seventh or eighth year. In any event, it destroys the sharp break between elementary and secondary education, and facilitates the task of providing curricula based on individual needs. Moreover, under the

[4] Ellwood P. Cubberley, in his *Public School Administration*, gives a list of twenty-two different kinds of special schools and classes found in American cities. See pp. 310-12.

junior high school plan the change from elementary to higher school no longer comes just at the period when great numbers of students are passing beyond the age of required full-time attendance. The likelihood that boys and girls will enter high school is thus probably increased.[5]

Educators have long been disturbed by the obvious fact that under most systems of public education the needs of backward children, and of gifted children as well, are slighted. The subject matter and methods of instruction are adapted to the requirements of the normal or average child. Stupid boys and girls find themselves unable to keep up with their classes, and eventually abandon the attempt. Children of marked intelligence grow restless under the constant reiteration of things they already know, and sometimes lose interest in the rather monotonous routine of class work. At best, they are held back by the limitations of their fellow students, and compelled to move at an intellectual pace which is entirely too slow for them. A number of plans have been proposed to break this educational lock-step. Most commonly adopted is the system of more frequent promotions. The large majority of progressive communities now divide each grade into two sections, and promote students twice a year, instead of waiting until the end of a full year of instruction. The child who seems capable of advancing more rapidly than his classmates may thus progress to a higher group without skipping more than half a year at a time, and the child who fails to make satisfactory progress need repeat only six months' work. Sometimes promotions are made four times a year, a plan which insures great flexibility, but works best with large buildings and large school systems. Together with more frequent promotions, other schemes have also been tried in a number of cities. Sometimes the teacher is freed from part of her regular routine of classroom instruction, in order that she may devote several hours a day to the individual guidance of students. Sometimes two or three parallel courses of instruction are offered

[5] *The Junior High School*, by William A. Smith, presents an impartial picture of the junior high school movement.

for the different grades, each course requiring a different amount of work. After the sixth year, bright pupils may be sent to central schools where they have an opportunity to complete the next four grades in three years.

Until recently city school buildings were of uniform type—eight or twelve rectangular class rooms, equipped with desks and chairs, and a principal's office. Such buildings could be designed readily enough by any architect, without special knowledge of educational problems and needs. The introduction of new courses and new teaching methods, however, has made the school buildings of several decades ago virtually obsolete. In all the more progressive cities attention is being focused upon the need for modern buildings to match modern curricula. Provision is often made for sewing rooms, fitting rooms, pantries, model dining and bedrooms and demonstration rooms to meet the needs of domestic science students; bench rooms, storage rooms, drafting rooms and demonstration rooms for those taking courses of industrial training; kindergarten rooms and workrooms for the smallest children. Sometimes there are auditoriums, gymnasiums, play rooms, reading rooms, supply rooms, teachers' rooms, physicians' rooms. A few of the better equipped schools in the larger cities have shower baths and swimming pools.

In most cities the school buildings are actually in use a very small part of the time. They stand idle until nine o'clock in the morning, and, barring evening school, after three or four in the afternoon. All day Saturday and Sunday, and on innumerable holidays, they are vacant. During twelve summer weeks they are not used at all, unless vacation schools are in session. Yet they represent a burden to the taxpayer twenty-four hours of every day. It is but natural, therefore, to ask whether they might not be put to wider and more efficient use. Educators and administrators have given considerable thought to this problem. As a result, in nearly all cities the school buildings are now turned over to the public, to a much greater extent than formerly, as evening recreation centers and for the meetings of private groups interested in public prob-

lems. But the most satisfactory arrangement yet proposed for securing maximum use of the school plant is the so-called Gary plan, first tried at Gary, Indiana. Under this scheme, the classroom capacity of any school is equal to but half the number of its students. Provision is made, however, for playgrounds, laboratories, shops, gardens and gymnasiums. Students are divided into two groups or platoons. One group goes to the classrooms while the other goes to the laboratories, shops and the like. Later in the day the groups are reversed. Thus the entire equipment is kept in use during all the hours of the school day. The fundamental features of the Gary plan have been adopted, at least for some of their schools, by more than sixty American cities, including Philadelphia, Detroit, Pittsburgh, Newark and Seattle.[6]

Organization of the School System

At this point the organization of the school system must be considered. At the head of the system is usually a board—the school board or board of education, as it is commonly called. Occasionally there is a single commissioner of education, but the overwhelming majority of cities make use of the board plan. The widespread movement for single-headed department control seems scarcely to have affected American school systems. Directors of police and fire have taken the place of police and fire boards; health commissioners have supplanted boards of health. Yet boards of education still function undisturbed. From the standpoint of logical administration, a director of education would be preferable to a board. Policy determining functions could readily be transferred to the council. But in practice boards of education have proved reasonably satisfactory. Their members have usually been of a higher calibre than city councilmen, and have seemed somewhat less subject to the warping influence of local politics. So people have hesitated, naturally enough, to discard a workable plan for one of uncertain merit, merely

[6] See "A Platoon School in Kansas City, Missouri," by G. W. Diemer, 1924 *Bulletin of the U. S. Bureau of Education.*

on the ground of logical organization. Nearly all educational experts prefer the board type of administration.

The trend of recent years has been toward smaller school boards. Thirty- or forty-member bodies have been replaced by those having seven, eight or nine members. Within the past few decades New York has reduced its board of education from forty-six members to seven, Philadelphia has changed from forty-three to fifteen, and Cincinnati has made a reduction from thirty-one to seven. In other municipalities the changes have been very nearly as marked. Today no American city with a population of a quarter of a million or over has a school board of more than fifteen members. Five seems to be the most popular number. The smaller bodies undoubtedly produce better results. They work more efficiently, and with greater harmony.

In most cities, the members of the school board are elected directly by the voters. New York, Chicago and a few other municipalities, where they are appointed by the mayor, and Philadelphia and Pittsburgh, where they are appointed by county court judges, are exceptions. Formerly school board members were elected by wards; now they are chosen at large almost everywhere. As a rule they serve without compensation, though sometimes they are given nominal salaries of one or two hundred dollars a year. San Francisco, an outstanding exception, pays each member four thousand dollars annually. Three or four years is the usual term, though in some cities school board members are still elected for but a single year, while in Savannah, Georgia, they are chosen for life. Terms are frequently overlapping.

Should There Be Financial Independence?

Usually the board of education is entirely independent of the municipal authorities. It fixes its own tax rate, within limits set by the state, and spends the money as it sees fit. The city treasurer may collect the school tax together with the regular city tax, and keep school funds in the city treasury. But in so doing he acts only as an

agent of the board of education. In perhaps one city out of five, however, the school system is dependent upon the municipal government for fiscal support. When that is the case, the budget prepared by the board of education must be submitted for approval to council, city commission, or other budget authority. In other words, educational expenditures must be subjected to the same scrutiny as expenditures for police and fire protection, health work, street paving and all other municipal activities. This procedure is followed by New York, Detroit, Baltimore, Buffalo and Minneapolis, among others.

It may occasion surprise that in such an overwhelming majority of instances education has been singled out from the long list of municipal services and placed in a class of its own. Some years ago, however, a good argument could have been made for putting it on an independent financial footing. In the days when city government was a "conspicuous failure," when the municipal service was nothing but a spoilsmen's paradise, and control of local affairs alternated between honest fools and dishonest knaves, the school system was kept reasonably efficient only by dissociating it entirely from other local activities. During the last three decades, however, municipal administrators have developed new standards of efficiency. They have put their work on a regular business basis in many cities. Yet the idea still persists that the regular municipal authorities must be denied a voice in school expenditures. Virtually all authorities in the field of educational administration take this view.[7] They contend that mayors and councils have no proper conception of school needs, and that only men primarily interested in education can really understand the fiscal requirements of an educational system.

There is a certain element of truth in this reasoning. A board of education is likely to be much more sympathetic than a council when additional money is requested for new

[7] See, for example, E. P. Cubberley's *Public School Administration*, p. 104, G. W. Frasier's *Control of City School Finances, passim*, G. D. Strayer's Report III, *Know and Help Your Schools*, p. 11, and A. B. Moehlman's *Public School Finance*, p. 210.

school buildings or increases in teachers' salaries. The same argument could be used, however, to justify fiscally independent boards of police, fire, health, water, poor relief, and a dozen others. The men who are responsible for but a single service naturally appreciate the needs of that service far better than those whose task is to guide all the governmental policies of a city. But the problem in city government, as in all government, is not merely to get as large an appropriation as possible for each department. It is also to keep the total tax burden within reasonable limits, and that can be accomplished only by balancing the demands of the several administrative departments against one another, allotting to each department its fair share of the city's total income. The board of education should be permitted to state how much the school system needs, but council should have authority to decide how much it actually gets. For no board of education, or other authority interested primarily in schools, can fairly weigh education against other public functions and determine their relative importance.

The schoolmen take the untenable position that education should be put in a class by itself. They contend that it should receive as large appropriations as its own representatives think desirable, while appropriations to all other services are adjusted to the city's budget plan. The general acceptance of this theory has been to increase the cost of education out of all proportion to the cost of other essential municipal activities. The schools are not getting more money than they can use to advantage, but they are receiving far more than their proper share of the tax dollar. In a recent year, when the school system of Lincoln, Nebraska, cost nearly twice as much as all the other activities of the city combined, many services were so restricted by lack of funds that they could not be operated effectively. There were not enough policemen, for example, to patrol the residential districts of the city, so the residents were compelled to provide their own night patrol, and pay for it out of their own pockets.[8]

[8] A. E. Buck's *Municipal Finance*, p. 29.

The case against a financially independent board of education was well set forth by the state court of appeals of New York a few years ago. "It would seem unfortunate," said the court, "if a body, however able and devoted, . . . might command whatever part of the limited revenues it thought best, to the sacrifice of other interests perhaps as essential. Such a board has no detailed knowledge of other public needs. It knows nothing of the number of police required or of the demands to safeguard the public health. Its view is limited to its own department, of course important, but likely to be regarded as of unique importance by those who have its interests at heart. In all governments, in the nation, the state, the city, the problem is to reconcile a hundred pressing needs so that the total of the appropriations shall not be excessive. . . . This can best be done by somebody able to consider them all and their relative importance.[9] The desirability of permitting school boards to fix their own tax rates, without any limitation save that imposed by state law, may be due for a more careful examination as the burden of taxation becomes increasingly heavy, and all governmental services grow more expensive.

The School Superintendent

Until a few decades ago the board of education, or board of school trustees, as it was frequently called, usually administered the school system directly. Its members employed and dismissed the teachers, and passed upon every detail of organization. As recently as 1870 there were only twenty-nine school superintendents in all the cities of the United States, and some of them were little better than clerks. Today every city of any importance has a professional educator, commonly known as superintendent of schools, in direct charge of its school system. This official is chosen by the board of education, and is made responsible for every detail of school administration. His more important acts must be approved by the board, which can override him at any time. His term is commonly one

[9] Emerson *v.* Buck, 230 N. Y. 380 (1921).

year, though in most cities he is regularly reappointed at yearly intervals as a matter of course.

It is not always easy to draw a sharp line between the powers of the superintendent and the powers of the board. The superintendent should pass upon all technical matters and all questions of administrative detail, while the board should confine itself to a consideration of school policies. To that statement almost everyone will agree. But what is a technical question? When does a matter cease to be a mere detail, and become an important issue? The board of education may answer these questions as it sees fit, and in many cities it sees fit to meddle in every phase of school administration, until it reduces the superintendent almost to the level of an office boy. Sometimes it goes so far as to interview all applicants for teaching positions, appointing and dismissing teachers with scarcely a reference to the superintendent's preferences. In other cases it passes upon every detail of the courses to be offered. There are a few cities, at least, where members of the board of education regularly visit the schools, observing and criticising the work of teachers and principals.

The recent tendency, however, has been to give the superintendent a greater measure of authority. Board members are beginning to realize that their work is half done when they select a capable educational expert and put him in charge of the school system. The change has come about, in part at least, as a result of the widespread abandonment of the committee system. At one time virtually all boards of education had large numbers of standing committees. Every member was assigned to two or three. There were committees on teachers, courses of study, textbooks, school supplies, buildings and grounds, janitors and sanitation, rules and grievances, promotions and graduation, kindergartens, elementary schools, high schools—just to mention some of the more common. These committees could do very little unless they interfered with the actual management of the school system. So, rather than admit that they were superfluous, they undertook to control administrative details, after the bungling fashion of ama-

teurs. If the superintendent objected, they thought him greedy for power. There are still many cities where the committee system of school control prevails, but they are survivors of another period. The modern practice is to conduct most school board business in committee of the whole.

When a city acquires a population of perhaps fifty thousand, it has need of an assistant superintendent. In a great metropolis there may be as many as four or five assistant superintendents, each in charge of some phase of the school system. Some supervision over teachers is necessary, and when there is but a single assistant superintendent the work of supervision may fall to his lot. Supervisors of special subjects are commonly provided if a city is large enough to justify this arrangement.

Every school system requires some form of business organization, for books must be kept, supplies ordered, received and stored, schoolhouses repaired, school grounds maintained. A large city usually has a business manager, who directs the work of bookkeepers, clerks, stenographers, storekeepers, and a purchasing agent. The manager is responsible for the school system's financial records. He approves all contracts and bills for materials or services, and draws all warrants on the treasurer of the board. He directs the purchase and distribution of supplies, employs and supervises the janitors, and oversees the construction and repair of buildings. Sometimes, in the great metropolitan centers, the upkeep of the school plant is placed in a separate department, with a director or superintendent of school properties at its head. The business manager and the director of school properties are chosen by the board of education, and in most cases are entirely independent of the superintendent of schools.

The Teachers

Special care should be given to the selection, training, salaries and tenure of teachers, for the effectiveness of the teaching force is by far the most important factor in any school system. Good buildings and equipment should be

provided, of course, but they cannot take the place of a capable instructional staff. In some cities the superintendent plays a subordinate part in the selection of teachers, all applicants appearing before the board of education.[10] Such an arrangement invites political wire-pulling. The man or woman who desires a position in the public school system knows that members of the board of education are not competent to pass upon professional qualifications, so tries to find an influential friend who will whisper a few appropriate words in some board member's ear. Fortunately, there is a growing tendency to vest the power of selection in the superintendent. His choices must be approved by the board, but failure to approve does not give the board the right to make nominations of its own. The superintendent usually makes his selections on the basis of professional training and experience, physical condition as determined by a medical examiner, and personality as revealed by interviews. In some of the larger cities, where great numbers of persons apply every year, competitive examinations are held.

The amount of training required varies greatly from city to city. Usually it bears some relation to the salary schedule. Professional educators agree that every elementary school teacher should have at least the equivalent of a four-year high school course, followed by a two-year course of training at normal school, and that every high school teacher should be a college graduate, with special preparation in one or more lines of secondary-school instruction. In a few cities prescribed standards exceed this minimum, but a great many municipalities have not yet reached it. To facilitate teacher training, normal schools have been established in nearly every state. Some of the large metropolitan centers have normal schools of their own.

There are a number of ways of determining salary increases. Simplest of all, and therefore most commonly adopted, is the plan of fixing a minimum beginning salary for everyone—perhaps varying the minimum with the

[10] See p. 590.

grade—and then adding a certain amount every year until the maximum is reached. The annual increase may be greater for high school teachers than for those in the grades. This scheme makes no attempt to rate teachers on the basis of efficiency. It simply treats them all alike. It offers no incentive to exceptional teachers, and thus tends to reduce everyone to the same deadening level. But it puts a stop to the unfortunate practice of increasing salaries because of favoritism or political pressure. In some cities teachers are required to pass promotional examinations in order to receive larger salaries, while in others the salary increases are given partly as a reward for additional study. Some experiments have been made with efficiency ratings, each teacher being graded for salary purposes by one or more superior officers. When the grading is done carefully, honestly and with good judgment, all the relevant factors being weighed, it furnishes by far the best basis for salary increases. But as actually practiced in a number of cities, it causes dissatisfaction among many teachers, who feel, often with reason, that they have been graded unfairly.

After a period of probation teachers should be given indefinite tenure, continuing to serve until they fail to give satisfaction or leave the service of their own volition. In a great many cities, however, contracts run for but a single year, and every spring the school board overhauls the entire teaching personnel. Some teachers are dropped without reason; others are retained despite slipshod, unsatisfactory work. So a few cities have gone to the other extreme, and given their teachers life tenure. Even under this plan provision is made for the dismissal, after public trial, of those who prove incompetent, immoral or insubordinate; but when a public trial is required, it is a foregone conclusion that action will be taken only in extreme cases.

Children between certain ages are required to attend school in every city of the United States. As a rule, however, the compulsory attendance laws are poorly enforced. A census of children of school age may be taken only once

in two years, or not at all. Private and parochial schools may fail to co-operate with the municipal authorities. The inevitable result is that many attendance officers have no way of knowing accurately what children should report for school at the beginning of each year. In the more progressive cities, the record of children within the legal school age limits is continuously revised. Parents, police and social workers, as well as the heads of public, private and parochial schools, are charged with the duty of helping to keep it up to date.

Public Libraries

The importance of public libraries in any general scheme of education must not be overlooked. They provide adults with a ready means of keeping abreast of the times, and enable children to supplement the information gained from regular courses of study. Half a century ago free libraries, supported out of the proceeds of taxation, were rare. Today they are found in virtually all cities. Branch libraries have been widely established. Library rules have been modified, so as to make it possible for everyone to obtain books without a great deal of needless formality. Increasing emphasis has been placed on non-fiction volumes, with the result that in some libraries nearly one-half of the books in constant circulation are of the non-fiction variety. Wide-awake librarians devote considerable time and thought to the important matter of securing adequate publicity for their book collections. They publish lists of selected current books and magazine articles. They find "human interest" stories for the newspapers. They speak before local organizations of every kind. For they know that the value of the library as a public institution depends in large measure on the extent to which the public acquires the habit of using its facilities.

Recreation

A large American city usually spends each year one dollar or more per person for the purpose of providing recreational facilities. Boston spends more than three dollars

annually for every man, woman and child, while Philadelphia, San Francisco, Buffalo and Milwaukee expenditures are not much less. Public recreation costs from three to twelve times as much as it did two decades ago.

This rising cost is readily explained in terms of increased service. The progressive city of today meets the play-time needs of its children and adults by providing parks, playgrounds, athletic fields, tennis courts, golf courses, ice skating rinks, bathing beaches, bath houses, boulevards, gardens, concerts, art exhibits, competitive athletic events and colorful spectacles. It inspires community interest in dancing and games, debating and dramatic entertainments, group singing, manual arts, sewing and knitting. It furnishes the leadership and the meeting places.

The earlier notion that private initiative could be trusted to provide suitable recreational facilities, supplying the rich as a matter of business and the poor as a matter of charity, has generally been discarded. It is now widely accepted that under modern urban conditions the municipal authorities must take a hand, guaranteeing to every child and every adult the opportunity for clean, wholesome play. City life has destroyed many of the attractions of a more primitive civilization. It has reduced the number and size of open spaces, put trees and flowers at a premium, transformed the quiet woodland and the old swimming hole into mere memories, and placed hunting and fishing entirely beyond the reach of the average boy or man. In their stead it offers, as commonplace diversions, street fights, police raids, fires, stolen rides on trucks and passenger automobiles. Small wonder that the cities have a serious problem of juvenile delinquency! For delinquency is the direct result of unguided spare time in a vast number of cases. Every city must face the task of making it easy for both children and adults to spend their spare time pleasantly and to advantage.

Parks

The need for parks and open spaces has long been recognized. Nearly every city has small islands of grass and

trees dotting the sea of tall buildings which constitutes its downtown business district. Even more generous provision for small open spaces at frequent intervals is commonly made in the suburbs. Odd-shaped remnants of land are often converted into parks at low cost. Sometimes these small neighborhood parks are partly converted into playgrounds, with a certain amount of special equipment for the use of children. Sometimes they are provided with bandstands, and free concerts are given during the summer months.[11] Parks of this kind, with areas ranging from a few thousand square feet to perhaps an acre or more, should be numerous and widely scattered. They should be selected with reference to some general plan, so as to afford maximum convenience to all the people. Too often, however, their location is determined by the cheapness of certain land or the political influence of its owners.

In addition to widely scattered neighborhood parks, a city should make provision in advance of actual need for a number of larger park areas—ranging in size from fifty acres to five hundred acres or more. Many an American city has seven or eight such parks, or an even greater number.[12] There should be, also, at least one vast wooded area devoted to park purposes. A natural beauty spot should be chosen if possible—a narrow river valley, perhaps, or a stretch of hilly countryside. Fortunately, such land is poorly adapted to ordinary residential or commercial development, and for that reason it can generally be purchased by the municipal authorities at a moderate price. It may be situated in an outlying suburb, at some distance from the homes of most of the people. Usually it is. It may be beyond the city limits. But accessibility is less important than in the case of smaller parks. Moreover, the widespread use of passenger automobiles has helped to solve the park transportation problem. Most people are willing to travel a reasonable distance in order to spend a few hours in the woods.

In virtually every city the assortment of open spaces

[11] Miami and some other cities furnish year-'round concerts.
[12] For example, Boston, Chicago, Los Angeles.

maintained by the municipal authorities is known as the park system. Sometimes the name is deserved. All too frequently, however, the word *system* is used as a matter of courtesy. Park sites are often selected without reference to one another, and in many instances no attempt is made to link the principal parks together by means of parkways or boulevards. A number of parks may properly be called a park system only when they are the product of co-ordinated planning, and when they are joined together by streets which retain some park features. If a motorist or pedestrian leaves one park, he should be able to tell by the general appearance of the street whether he is on his way to another. He should be able to recognize a parkway by certain distinguishing characteristics—unusual width, well planted trees and shrubs, a section of roadway devoted to restricted traffic. There is no great danger that stores or factories will be erected along a parkway, even in the absence of suitable zoning regulations, for when a street is given a width in excess of one hundred feet, business usually shuns it. Chicago furnishes a good example of a genuine park system. Its famous lake front parks are connected by broad boulevards, so that it is possible for the motorist to drive for miles without ever losing the impression that he is still within a park area. The park systems of Boston, Minneapolis and Kansas City are also well planned.

Playgrounds

Every community finds it necesssary to meet the play needs of its children by setting aside some land for playgrounds. A few decades ago the playground was generally regarded as a haven for slum children. It was assumed that the children who lived in better neighborhoods could find adequate play space near their own homes. In the large cities, at least, that assumption is no longer justified. Suitable open places of sufficient size have almost disappeared, even in the better residential neighborhoods, and in many sections the number of children per block has been multiplied many fold by the substitution of apart-

ment houses for private homes. Urban boys and girls, the rich as well as the poor, find that they have no natural play places. The streets can no longer be used in safety. So playgrounds must be provided. They should be as near the schools as possible; under ideal conditions the neighborhood playground is the school yard. This fact is now generally recognized, and when a new school is built it is commonly placed upon a tract of ground sufficiently large to provide adequate play space. Many of the older schools have very small yards, however, and nearby land must be purchased for playground purposes. The size of a playground should depend, of course, upon the number of children who may reasonably be expected to use it. But this does not mean that so many square feet of play space should be provided for every child in a community. There will never be a time, in all probability, when all the children will be on the playground at exactly the same moment. So a neighborhood playground may safely be designed to accommodate simultaneously but forty or fifty per cent of the neighborhood's children.[13] There should be about two hundred square feet for every child using the playground at peak load. Under no circumstances, however, should the minimum area be less than four acres for playgrounds adjacent to elementary schools, or six acres for high school playgrounds. For a school with a small enrollment needs just as large a football gridiron or a baseball field as a school with many students. If possible, the playground should be square or nearly so. It should be drained and graded, fenced, and provided with drinking fountains. Apparatus and equipment should be placed around the sides, leaving the center for group activities.

Some years ago the idea was prevalent that the chief function of playground leaders was to put a stop to free-for-all fights, and prevent the bad boys of a neighborhood from carrying off the fences. Today it is commonly under-

[13] Some writers place the estimate as low as twenty per cent. See, for example, Jay B. Nash's *The Organization and Administration of Playgrounds and Recreation*, p. 70.

stood that trained playground workers—directors, play leaders, supervisors—are quite as essential as adequate space and equipment. The unsupervised playground is apt to degenerate into a hangout for all the rowdies and bullies of the neighborhood. Two persons, a man and a woman, can handle a small playground. If motives of economy suggest a reduction of the staff to one person, that one should be a woman. For a woman is far more effective with small children and girls, and can usually obtain quite satisfactory results from boys until they have reached the age of eleven or twelve. A large playground with diversified areas requires a number of workers. There must be play leaders and assistants to organize games and guide the children in their play activities. The director must be a man of administrative ability, trained to deal with recreational problems. He must know how to inspire as well as control. Special activities, such as music, drama, handcrafts, storytelling, should be in charge of supervising specialists.

When playgrounds are scarce and not easily provided, a number of cities resort to novel makeshifts. Some of them rope off certain sections of little used streets for several hours every day, perhaps making provision for games conducted under leadership. When snow is on the ground, coasting may be made safe by this method. Sometimes the roofs of schools, tenement houses, hotels and apartments are so equipped as to make them suitable for children's play. New York, Baltimore, Chicago and some other cities construct piers especially for recreational purposes, or use existing piers.

The play needs of pre-school children can best be met in the backyards of their own homes. For they are too young to travel several blocks unescorted to neighborhood playgrounds without danger of mishap, and too immature to join in the highly organized play of older boys and girls. Most American families, even in the larger cities, still have backyards which could readily be adapted to the requirements of small children by the addition of sandboxes, improvised swings, or other simple equipment. Of course,

there are some residential sections of great metropolitan communities where backyards have disappeared, and in such neighborhoods the play space problem of the pre-school child is not easily solved. In New York there is an organized movement to create so-called backyard playgrounds by tearing down the fences between tenement houses or other residences. Some cities set aside special areas of playgrounds and neighborhood parks for the use of pre-school children, under the care of their nurses, mothers or older sisters.

Community Centers

Only recently has the importance of providing wholesome recreation for adults as well as children been generally recognized. Within the last few years the community center idea has made rapid headway. In some cities it takes the form of merely providing suitable space where self-organized groups may meet and carry on their activities. Clubs and associations may be permitted to use the school auditorium, the playground gymnasium, the library club room, without charge or upon payment of a small fee to cover janitor service, heat and light. A number of municipalities have gone still further, and undertaken the responsibility of initiating complete community recreation programs. Such programs may include classes in public speaking, dramatics, china painting, cooking, home nursing, lamp shade making, needlework, millinery, gymnastics. The people of a community are encouraged to form their own organizations—bands, orchestras, glee and mandolin clubs, minstrel troupes, mothers' clubs, men's community clubs, parent-teacher associations. For the children there are local divisions of the boy and girl scouts and camp fire girls. Indoor games are commonly provided—not only table games, but basketball, volleyball, indoor baseball. At the community center there may be special features, such as Wednesday evening entertainments and Saturday evening neighborhood socials. Tuesday and Thursday evenings may be reserved for dancing. Even motion pictures may be shown occasionally.

When the activities of a community center become this extensive, they should be in charge of a full-time, well-trained and well-paid recreation director. The assistance of volunteers should be welcomed, however. For a community program is most likely to succeed if it has the hearty support of local residents who are willing to undertake responsibility for certain phases of the work in which they are especially interested. The old notion that recreational activities should be organized for the people, but not at all by the people, has been largely discarded. Today it is freely admitted that best results can be obtained by stimulating the residents of a community to take an active part in the development of their community center.

A few cities have constructed buildings especially designed and equipped to meet neighborhood recreational needs. For the average municipality, however, this plan is needlessly expensive. Satisfactory results can be obtained by utilizing existing buildings, notably the school houses. Community center activities are carried on for the most part in the evenings, when the large majority of school houses would otherwise be idle. Some of the rooms of branch libraries can usually be pressed into service. Churches, fraternal organizations and civic clubs often have buildings which are well adapted to recreational purposes, and city authorities may find it possible to arrange for the use of these buildings by the public at certain times. Greater use of existing facilities, rather than the creation of new facilities, should be the aim of those responsible for public recreation.

The outdoor play needs of adults can be met in part by athletic fields conveniently distributed throughout the city. These fields should be large enough to permit of baseball, football, soccer, hockey and similar sports, and provide ample space for everyone who cares to use them. Though designed primarily for persons of post-school age, they should be made available to persons of all ages. It is important that they be kept open on Sunday, the one day of the week when nearly everyone has free time for wholesome outdoor recreation.

Municipal Camps

Many cities now have municipal camps, often situated several miles beyond their boundaries. These camps provide opportunity for families to live out of doors for two or three weeks in the summer under rather primitive conditions at surprisingly low cost. Campers keep their own tents or cabins in order, and make their own beds. They take their turns at preparing the food, waiting on table, stacking the dishes. Only a few paid workers are necessary—a director, a nurse, a supervisor of hikes, a supervisor of campfire social activities, a cook, and perhaps five or six others.

Camps are frequently provided for tourists at a city's edge. Motorists may park their automobiles under the trees, and secure overnight lodging in tents or log shelters for fifty cents or one dollar. Breakfast is sometimes served in a community house at slight additional cost for those who do not care to prepare their own meal. Strictly speaking, a tourist camp is not a recreation center. It is a sort of municipal hotel. But it helps to bring a splendid form of recreation—long distance travel—within reach of great numbers of people.

In the average city, responsibility for preparing and carrying out recreational policies is hopelessly divided. Parks, picnic grounds, camp sites, golf courses may be in charge of the park department. Playgrounds, athletic fields, swimming pools, community centers may come under the jurisdiction of the department of playgrounds. The board of education may be conducting a vast number of play activities for school children. Chicago, which is a notorious example of decentralized recreation control, has twenty-two virtually independent agencies in charge of various phases of its recreational program. Such divided responsibility almost inevitably entails wasteful duplication, and makes it impossible to apportion praise or blame fairly. It is desirable, therefore, to place all phases of municipal recreation, except perhaps the play activities of school children, under the direct control of a single

bureau or department of the city government. A number of the more progressive cities have already taken this step. In the life of the school child, play and study are so interlocked that many careful students believe the board of education should assume responsibility for both. In that case, however, close co-operation between the board of education and the department of recreation is essential. Sometimes the department of recreation is charged with the duty of inspecting places of commercial amusement, such as theatres and dance halls. Proprietors of disorderly dance halls and producers of lewd shows can thus be called to account.

SELECTED REFERENCES

Adams, John, *Modern Developments in Education Practice,* New York, 1922.

Beard, Charles A., ed., *Whither Mankind?* New York, 1928, pp. 332-54.

Bostwick, Arthur, *American Public Library,* 3rd ed., New York, 1924.

Bowen, W. P. and Mitchell, E. D., *Practice of Organized Play,* St. Louis, 1923.

—— *Theory of Organized Play,* St. Louis, 1923.

Briggs, Thomas H., *Junior High School,* Boston, 1920.

Cleveland Foundation, *Cleveland School Survey,* Cleveland, 1918.

—— *Cleveland Recreation Survey,* Cleveland, 1920.

Cubberley, E. P., *Public School Administration,* Boston, 1922.

Curtis, H. S., *Practical Conduct of Play,* New York, 1915.

Engelhardt, N. L. and Engelhardt, F., *Public School Business Administration,* New York, 1927.

Frasier, G. W., *Control of City School Finances,* Milwaukee, 1922.

Fulk, L. R., *Municipalization of Play and Recreation,* Gainesville, Fla., 1922.

Hanus, Paul, *School Administration and School Reports,* Boston, 1920.

Kandel, I. L., ed., *Twenty-five Years of American Education,* New York, 1924.

Lee, Joseph, *Play in Education,* New York, 1915.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 504-30.

Moehlman, Arthur, *Public School Finance,* New York, 1926.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXVIII and XXXVIII.

Myers, George, *Problem of Vocational Guidance,* New York, 1927.

Nash, J. B., *Organization and Administration of Playgrounds and Recreation,* New York, 1927.
Perry, C. A., *Management of a Public School System,* 2nd ed., New York, 1919.
Playground and Recreation Association of America, *The Normal Course in Play,* New York, 1925.
Rainwater, Clarence, *Play Movement in the United States,* Chicago, 1922.
Regional Plan of New York and Its Environs, *Public Recreation,* New York, 1928.
Smith, Harry P., *The Business Administration of a City School System,* New York, 1926.
Smith, William A., *Junior High School,* New York, 1925.
Spain, Charles L., *The Platoon School,* New York, 1924.
Strayer, G. D., Engelhardt, N. L. and others, *Problems in Educational Administration,* New York, 1925.
Sullivan, O. M. and Snortum, K. O., *Disabled Persons, Their Education and Rehabilitation,* New York, 1926.
U. S. Bureau of Labor Statistics, Bulletin No. 462, *Park Recreational Areas in the United States,* Washington, 1928.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. XVI and XVII.
Wegener, A. B., *Church and Community Recreation,* New York, 1924.
Wheeler, Joseph, *The Library and the Community,* Chicago, 1924.

The Playground and Recreation Association of America has a vast amount of valuable information in the form of books and pamphlets. The Association also publishes a monthly magazine, *Playground.*

CHAPTER XXVI

CHARITIES AND CORRECTION

Charities

Poverty is a universal problem, but in urban communities it is especially serious. For the cities have more than their share of the very poor, as well as the very rich. They have more paupers as well as more plutocrats. Modern industrial society has brought about a much greater production of wealth, but a much more unequal distribution. In the rural districts the people are more nearly on a common plane. There are fewer who cannot remain self-supporting. Their food supply, or a great deal of it, comes from their own land. Many city dwellers, on the other hand, find it extremely difficult to earn enough to buy the barest necessities. They cannot supply even their most elementary needs—for food and shelter, for example—directly with the work of their own hands. They are forced to rely entirely on the wages they receive. At best those wages are pitifully inadequate, but in times of industrial depression they may sink still lower, and when illness occurs they stop altogether. It has been estimated that one-tenth of the American people are below the borderline of complete self-support, and a considerable majority of them are in the cities. Urban civilization is responsible in no small measure for the widespread extent of poverty, and urban civilization must find a remedy.

Poverty is closely related to unemployment. If society could guarantee to every man a job suited to his physical and mental capacity, there would be relatively little need for poor relief. At times, indeed, the ideal of a job for every worker is very nearly approximated. At the peak of industrial prosperity, when factories are operating night and day, and stores are trying vainly to fill waiting orders,

work may be had almost for the asking. But every period of prosperity is followed by a period of depression, and then large numbers of men and women find it virtually impossible to secure employment. Even in normal years —those years which lie between the peaks and the valleys —every large city has a veritable army of unemployed. For a great metropolis like New York or Chicago the figure may run into the hundreds of thousands.

The Causes of Unemployment

Two questions at once arise. What are the causes of unemployment? How can they be removed? If we could give a satisfactory answer to both of these questions, we should be well on the road to an adequate solution of the problem of poverty. But it is difficult to learn all the causes of unemployment, and far more difficult to eliminate them. Three or four factors may be operative in the case of a single person. He may be untrained, shiftless, handicapped by physical disability and a victim of general industrial depression. In every society, of course, there are some men and women who are permanently unemployable. They are unable to carry on regular work, or unwilling to do so. But the vast majority of people desire employment, and resort to charity only as a last recourse.

One important cause of unemployment is the maladjustment of industry. Employers in one trade or one community need labor, while laborers in another trade or another community are badly in need of work. Many industries are seasonal, requiring thousands of workers at some periods of the year and scarcely any workers at other times. They take on men and women, perhaps for the spring season, and then turn them loose when the busy period is over. Here is a cause of unemployment entirely unrelated to the worker. He may be skilled or unskilled, old or young, diseased or well, but it makes no difference. He is unwanted simply because there is no work for him to do.

Many a man is found among the unemployed because of physical or mental incapacity, or because of sheer indif-

ference. He may be temporarily or permanently weakened by disease. He may be crippled as the result of an accident or a congenital defect, and unable to meet the competition of his fellows. He may not have the training necessary to make him a successful wage earner. He may even lack the brain power required for steady employment. Or he may be sound of mind and body, but unwilling to sacrifice his independence by shackling himself to a job. He may be of the opinion that the easiest road is the road of the professional tramp.

Eliminating the Causes

Whatever the causes of unemployment, they must be eliminated wherever possible. Anything that reduces unemployment, or lessens its evil effects, helps to solve the problem of poverty. In recent years the matter of industrial maladjustment has attracted a great deal of attention, and plans have been proposed for bringing manless jobs and jobless men together. A number of cities have municipal employment bureaus, operating with varying degrees of efficiency, but almost always without charge to employee or employer. All too frequently these bureaus are placed in charge of professional politicians, with the result that they do little more than provide employment for a few additional stenographers and file clerks who handle the necessary correspondence and records.

Nearly every large city speeds up its building program to some extent in times of industrial depression for the purpose of providing the jobless with work. Some of the construction thus hastily undertaken is unnecessary; a great deal of it is poorly planned. The suggestion has frequently been made that cities prepare extensive public building programs well in advance of need, and carry them out during periods of widespread unemployment. In this way laborers might be tided over the weeks or months of industrial crisis without resort to charity. It might be feasible to rotate employment, hiring men for but three or four days at a time. Preference could be given to resident heads of families. Any plan to substitute public

work for private in times of emergency has two obvious weaknesses, however. For one thing, it fails to reach the heart of the problem. At best it is a rather unsatisfactory makeshift, offering jobs to thousands when hundreds of thousands are out of work. Then, too, it subordinates public undertakings to private enterprises. When the residents of a city need newly paved streets or an improved water system, they are not likely to be satisfied with the explanation that business is good, so they must continue to ride over rutted streets and drink ill-smelling water until industrial depression sets in. Of course, it is highly desirable to plan public works long before they are begun, but no amount of planning will enable a city to make its need for new construction coincide exactly with periods of widespread unemployment.

Private employers could help to solve the unemployment problem by waiting until slack times to make needed repairs and improvements. They could adopt a policy of part-time work for all instead of dismissal for many when business is dull. The average employer, however, gives but little thought to such matters. He has only a hazy notion of what unemployment means to his workers. He should be educated to the importance of the problem, and the need for his co-operation. The responsibility for a suitable campaign of education rests upon the municipal authorities. They should be the leaders of a community movement for greater stability of employment.

Some European countries have experimented on a widespread scale with compulsory unemployment insurance. Virtually the entire industrial population of England is protected by a system of national insurance. Contributions are required from both employers and employees, and the balance of the fund comes out of the national treasury. The benefits paid to jobless workers are small, but sometimes they are supplemented by trade unions, benefit societies or individual employers. In Germany, where compulsory unemployment insurance has been in effect since 1927, the government bears no portion of the cost. The entire burden is placed upon the protected in-

dustries. Italy, Austria, Czechoslovakia and Russia also have nation-wide systems of unemployment insurance. Any scheme which insures workers against loss of employment has certain obvious disadvantages. It is expensive, for even if employers and employees are required to pay the entire bill, the cost will most certainly be shifted, at least in part, to the general public in the form of higher prices. There is also a very real danger of fraud. No matter what precautions are taken, some few men and women are likely to find ways of holding jobs while they collect unemployment benefits, and others are fairly certain to evade work in order to live in squalid idleness at public expense. On the other hand, properly enforced administrative regulations can reduce fraud to a minimum. And those persons who object to unemployment insurance on the ground of cost may well be reminded that the social cost of unemployment is very great indeed. Bills providing for different forms of compulsory unemployment insurance have been introduced in half a dozen American state legislatures, but have failed of passage.[1]

A few American cities, of which Boston and Lowell are good examples, maintain municipal lodging houses. Here any person may have a night's lodging and a warm breakfast. In return he is expected to cut and saw wood for an hour or two. This labor seldom results in any saving to the city; in some instances it costs more to secure the uncut wood and transport it to the lodging house than to buy the wood ready cut. But it is generally agreed that everyone applying for free shelter and food ought to be given a work-test, unless too weak or ill. In the absence of such a test the municipal lodging house would soon be filled to capacity with professional vagrants. Facilities should be provided for bathing and disinfection, and also for competent medical and social service. Co-operation between lodging house and employment bureau officials is essential.

[1] A good discussion of unemployment insurance is found in the monograph of the National Bureau of Economic Research, *Business Cycles and Unemployment.* See also Vol. VII, No. 11 (March 17, 1928), of the Information Service published by the Federal Council of the Churches of Christ in America.

If a city has no public lodging house, it commonly fits up beds for its "transient guests" in the police station houses.

One way to dispose of the case of the homeless pauper from another community is to order him to leave town within twenty-four hours. This keeps him just as poor and as homeless as before, but enables a city to shift responsibility to its neighbors. It is a plan commonly adopted by smaller cities. The larger municipalities frequently appropriate considerable sums for the transportation of destitute strangers, paying their carfare to the places where they say they wish to go if that method seems cheaper than taking care of them. Among progressive municipal officials, however, it is customary to corroborate the statements of persons appealing for transportation, and to make certain that their prospects will be improved by the change.

Every city must make provision for those who are temporarily or permanently incapable of self-support—the sick, the crippled, the aged, the feebleminded, the insane. Whenever possible it should remove the handicap—a far more important matter than mere charity. Illness, which causes the average worker to lose ten or twelve days' wages every year, cannot be eliminated, but it can be greatly reduced. Virtually every city contributes to the support of private hospitals, and in addition a large number of municipalities have hospitals of their own. Free treatment is given to those who cannot afford to pay for it. Many cities also furnish the poor with free medical service in their own homes, the doctors chosen for this work being paid out of the city treasury. This practice is becoming less common, however.[2] Compulsory health insurance, which is found in many countries of Europe, has made no headway in the United States.

Americans have taken a different attitude, however, towards insurance against industrial accidents. In most sections of the United States such insurance is compulsory, and the cost is borne by employers. Some years ago it was customary to try to fix the blame for every accident which

[2] See p. 645.

occurred in industry, and place financial liability directly on the person responsible. If a workman lost an arm or a leg through the negligence of his employer—in failing to install protective devices around dangerous machinery, for example—he could collect from his employer heavy money damages. But if the accident was caused by the carelessness of a fellow employee, the injured man would have to look to his fellow worker for compensation. And if he was maimed as a result of his own carelessness, he would be obliged to accept the entire burden. At first thought it might seem that such an arrangement would promote substantial justice, but the records show that over a long period of years it was productive of grave injustice. It placed upon an injured workman the necessity of bringing a civil suit, and proving the carelessness or negligence of his employer or co-worker, at a time when he was least able to do so. Sometimes damage suits dragged on for years, going from one court to another on appeal, until the worker agreed to settle for some entirely inadequate amount in order to get ready money. Negligence was difficult to prove. If it happened that a fellow employee was to blame, it hardly paid to commence suit. A judgment for five or ten thousand dollars might be obtained, but how could it be collected from someone whose possessions were probably worth a few hundreds at most? And what of the worker injured through his own carelessness? Society could not decently leave him to shift for himself and his family with the reminder: "It's your own fault!" Today the question of blame is regarded as unimportant, at least from the standpoint of liability. When an industrial accident occurs, the employer is always liable, except under certain special conditions. He must compensate the injured worker according to a scale prescribed by law. The amount of compensation depends upon the nature of the injury, and also upon the wages earned. The burden placed upon the employer is not unreasonably heavy; it is simply one of the costs of production, to be passed on to the consuming public like any other production cost.

Persons born with physical handicaps can often be taught trades which will make them self-supporting. Attention has already been called to the special schools and classes established in many cities for the blind, the deaf, the anemic, and other special groups.[3] No amount of training, however, will entirely solve the problem of the mentally incapacitated. Some few higher grade feebleminded persons, whose intellects are not far below what is commonly known as dull-normal, may be made capable of self-support after long periods of highly specialized training. But a large portion of the sub-normal folk, including the insane, the idiots, the imbeciles, and many of the morons, must be kept in institutions where they can receive proper care.

The Aged and the Young

Old age greatly intensifies the problem of poverty. There are more than five million people in the United States who have passed the age of sixty-five, and comparatively few of them have been willing or able to save enough during their working years to make them financially independent. Unless they can find friends or relatives to care for them, they must of necessity turn to the city or state for aid. In many European countries old age pension systems have been adopted. Sometimes employees are required to contribute during their working years, as in Germany; sometimes the entire cost is borne by the public treasury, as in England. The proposal to provide a system of public old age pensions covering all workers has not yet met with general approval in the United States.

When a man dies without adequate savings or life insurance, leaving children who are too young to support themselves and a wife who has no ready way of earning a living while she cares for her family, it becomes necessary for the state or city to take a hand. In most states, pensions are given to the needy widows of wage earners, and sometimes to other poor mothers. Payments are small; in many instances they are scarcely enough to provide the

[3] See p. 582.

barest necessities. But they make it possible for poor children to remain with their mothers instead of being committed to institutions.

When both parents die, the usual practice is to send the children to either publicly or privately supported orphan asylums. The average city maintains a home for orphaned children or else places them in private institutions, perhaps contributing to the cost of caring for them. In recent years, however, it has become increasingly clear that normal children cannot be reared properly in an institutional environment. They need *homes*—and the *h* must be written with a small letter. Even the best of orphan asylums usually have startlingly high death rates among the babies, and the vitality of the older children is nearly always low. There is no opportunity to exercise individual initiative, or to learn the important lesson of self-reliance. "The discipline that would make a good soldier ruins a child—it is fatal to him to march in platoons, to play only at the word of command."[4] So a number of cities have attempted to solve the problem by placing orphaned children with private families, paying for clothing and board out of the municipal treasury if the foster parents are unwilling to accept the financial burden. Excellent results can be obtained by this plan, but only when adequate provision is made for keeping in close touch with every child. There should be a corps of skilled social workers in the municipal service, charged with the duty of ascertaining whether boys and girls placed in private homes by the city are receiving proper training and care. Unfortunately, some municipalities use the placing out system without making any serious effort to learn what actually happens to the children after foster parents have been found.

There can be no doubt that the wisest way of dealing with the problem of poverty, in the long run, is to find its causes and eliminate them. If seasonal fluctuations produce unemployment, a serious attempt should be made to keep industry operating at a more steady pace. If industrial accidents draw men into the pauper class, indus-

[4] Amos G. Warner's *American Charities*, 3rd ed., p. 267.

trial re-education should make many of them self-supporting once more. But any comprehensive program designed to strike at the root of the problem cannot be formulated and carried out in a day—or even a decade. It must be developed gradually over a considerable period of time. In the meantime, what is to be done with the thousands of poverty-stricken persons found in every large city? Should they be permitted to remain in their own homes? Or should they be sent to institutions, where they will receive standardized care? Should the relief which is given, whatever form it may take, come from the public treasury, and be administered by public officials, or should reliance be placed chiefly on private charity? Private charitable organizations operate on a large scale in virtually every city of the United States. They secure private contributions amounting to many millions of dollars yearly. Might it not be wise to leave to them the entire field of poor relief?

Public charity has certain obvious disadvantages. Unless carefully and sympathetically administered, it is likely to be more impersonal and mechanical than private aid. The kindly touch which means so much to the poor and friendless may be lacking. Then, too, there is an undoubted tendency for many paupers to regard public relief as a matter of right, and depend too heavily upon it. And it must not be forgotten that public charity, if carried on extensively, places a heavy burden on the taxpayers. There may be real danger of taxing some poor but self-supporting people into the pauper class in order to aid those who have already crossed the line.

There is another side to the story, however. Public relief, supported by public taxation, must be paid for by the entire community. It bears as heavily upon the stingy as the generous. It does not permit indifferent persons to escape their proper share of responsibility. And if the tax system is equitable, the burden is placed squarely upon the shoulders of those best able to bear it. Moreover, the amount of money available for charitable purposes is not likely to drop suddenly during periods of industrial de-

pression, as sometimes happens when reliance is placed on private donations. Public relief is more readily controlled by public opinion. Abuses can be detected more readily, and checked with greater ease. In the United States charity is still regarded for the most part as a private matter, but the governments of the cities are doing far more today for the relief of the poor than ever before. It may be that in time the popular attitude will change, and that government will assume the entire responsibility for poor relief. Most of the governmental services which we now accept as a matter of course—police and fire protection, education and recreation, to mention just a few—were once performed by private agencies.

In many cities the poor relief work carried on directly by municipal officials is supplemented by grants of public money to private institutions. New York City appropriates several million dollars every year for this purpose. Whether cities ought to subsidize private charities is a debatable question. In favor of such a policy it is urged that greater economy will result, since the persons in charge of private charitable organizations are apt to be trained social workers, who know how to put every dollar where it will do the most good. As a matter of fact, however, the economy is usually more apparent than real. For when the managers of private institutions learn that every additional inmate means a larger subsidy from the city, they are likely to lose all incentive to investigate the cases of applicants carefully before accepting them. The number of inmates increases rapidly, as a rule, as soon as public money is granted. It is quite possible, of course, to give municipal officials the sole right to commit persons to subsidized institutions, and in some cities this plan is followed, with reasonably satisfactory results. But there seems to be no way of preventing duplication of work by rival charitable organizations, each receiving public funds.

Indoor Relief

The aid given to poor persons in institutions is generally called *indoor relief*. When the poor are helped in their

own homes, the term *outdoor relief* is commonly used. Indoor relief is most popular with public authorities. Each city or county has an asylum, poorhouse, workhouse, poor farm or "home." The institution is much the same everywhere, regardless of the name it bears. It is the place where persons are usually sent when they fall below the level of self-support. Some years ago it was a veritable catch-all. To it were committed the orphaned children and the homeless aged, the feebleminded and the insane, the blind, deaf and dumb, the tubercular, crippled and paralytic, the inebriate and epileptic. Normal persons mingled with subnormal on terms of enforced intimacy. Young children of normal stock came into close contact with degenerates of every sort. During the last three decades, however, there has been a widespread movement to classify the inmates, and make separate provision for those in need of special treatment. In the more progressive cities there are now special hospitals for the tubercular and for the insane, in addition to institutions where the feebleminded may receive instruction suited to their capacity. Orphaned children are placed in separate asylums or private homes. Reference should again be made in this connection to the schools for the blind, deaf and dumb. Under such circumstances the municipal "home" tends to become what it should be everywhere—a place of residence for old and infirm people who are no longer capable of self-support.

The older poor asylums were usually converted farmhouses. Then came buildings of the dormitory variety, several stories in height. The multi-storied dormitory is still found in most cities, but is gradually being replaced by the cottage type of poor home. When the inmates are housed in small cottages, it is a comparatively simple matter to classify them according to their needs. Equally important, the severely institutional aspect is lost. The word *home,* as applied to a poorhouse, becomes a little less ironical. For the men and women in their cottages can almost believe that they have homes of their own.

Every inmate, unless bedridden or extremely feeble, should be given a task suited to his capacity. Some can

perform janitorial service, while others can work in the boiler room. Some can help to prepare the food. If there are any aged shoemakers, they can make shoes for everyone in the institution. Such a policy makes the poorhouse more nearly self-supporting, and lightens the burden on the taxpayers. Its chief merit, however, is that it makes life brighter and more endurable for the inmates. Like other people, they are happy only when their minds and hands are occupied. They soon learn that idleness brings misery.

Outdoor Relief

The outdoor relief provided by the municipal authorities takes a number of different forms in different cities. Sometimes it consists of nothing more than the distribution of coal in small quantities; sometimes it includes also the furnishing of food and other supplies. Money is scarcely ever given, except under the mothers' pension laws already mentioned.[5] The argument most commonly advanced in favor of outdoor relief is that it is the most natural and kindly way of helping those who cannot raise themselves to the level of complete self-support. In every large city there are thousands of persons whose earnings are not enough to buy the necessities of life. Is it not better in every way to supplement their meagre wages with gifts of food and fuel than to put them in institutions, thus separating them from relatives and friends? Is it not more economical to help them occasionally, instead of making them completely dependent on public charity? Outdoor relief should be cheaper and more effective than indoor relief. A great many cities, however, have found it more expensive, and far less satisfactory. Costs have risen because of the increased number of applicants. Whenever you tell the people of a city that bread and coal are theirs for the asking, if only they are poor enough, it is astonishing how many of them achieve the requisite degree of poverty. They will not go to the municipal home; that form of charity is too unpleasant. But they have no hesitancy

[5] See p. 612.

in asking for alms from the public treasury. In the past, public outdoor relief has frequently led to political corruption. Many municipal officials have made their friends and followers the chief beneficiaries of the city's generosity. They have not scrupled to trade supplies for votes. Conditions of this sort are not generally tolerated today. Cities have been faced with the necessity of finding improved ways to administer outdoor relief, or else of abolishing it altogether. Some have abolished it. Others have improved their administrative methods, substituting professional social workers for professional politicians. It is becoming increasingly clear that efficiency is just as important in poor relief as in any other phase of municipal activity. Even a free soup line can be handled more satisfactorily by honest administrators than by dishonest ward heelers. Too many crooks spoil the broth.

The method of organizing the agency responsible for municipal poor relief varies greatly from city to city. There may be a board or a single commissioner. Under the board plan, the members may be paid or unpaid, elected or appointed. The tendency in the larger cities is to rely on a single director of charities, appointed by the mayor or manager. Sometimes poor relief is assigned to a separate department; sometimes it is placed in a department of public welfare, together with parks, playgrounds, legal aid and other welfare activities.

Whatever the form of organization, it is important that the officials in charge of municipal charity co-operate with the various private organizations whose task is also to serve the poor. As a rule, the private charities maintain a co-ordination bureau—a central clearing house where the records of all cases are kept. Without such a central agency it would be possible for an unscrupulous person to secure aid from perhaps a dozen different sources. The municipal authorities, therefore, ought to make constant use of the co-ordination bureau's facilities, and contribute to its support. They should take the lead in establishing such a bureau in a city where it does not already exist.

Correction

Crime and poverty are closely related. In every community the criminals are recruited largely from the ranks of the poor. This need occasion no surprise when it is remembered that the feebleminded, the physically handicapped, the illiterate are frequently numbered among the poverty-stricken. Defective minds, crippled bodies, and even mere ignorance predispose men to act differently from their fellows. Moreover, the very fact of poverty creates a temptation to certain kinds of wrongdoing—theft, for example. Almost any person who cannot get work is likely to consider the possibility of stealing instead of starving.

The philosophy of the average man concerning crime and criminals can be summed up in a very few sentences: laws are made for the protection of the community; they represent the social will. Anyone who violates them does so because he deliberately chooses to defy society. He is a criminal. Therefore he must be punished. And so the chain of reasoning is complete! But is the problem of crime really so simple? Is it fair to assume that every law is an expression of the social will, and that every law breaker is a criminal? Certainly every law is not good; some of them are positively evil. They are passed by legislators without due consideration, or because of the pressure of paid lobbyists for powerful interests. The act which is prohibited today may be encouraged tomorrow. The conduct forbidden in one state may be permitted in neighboring commonwealths. The statute books of every state contain laws which are generally regarded as undesirable, and therefore are not enforced. In this category are the so-called "blue laws," which attempt to regulate standards of personal conduct. To say that a man is a criminal simply because he breaks a law is unfair and inaccurate, unless you eliminate from the definition of "criminal" the idea of moral wrong or social injustice. Many a man who has violated the law is a better citizen than his neighbor who has managed to respect every legal technicality.

Why Do Men Become Criminals?

Before we can discuss intelligently the problem of crime, we must understand why men become criminals. What are the forces that induce men to commit crime? Sometimes crime is merely a matter of definition. Every session of the legislature defines new crimes and prescribes new penalties. For every act declared to be criminal in a more primitive society, there are ten or a dozen today. An ever increasing number of the things which men would like to do are being brought under the prohibition of the law. The natural result is that we have more criminals.

It often happens that crime is committed as a result of sudden and overwhelming emotion by persons who certainly do not belong to the professional criminal class. The man who discovers the treachery of his friend or the woman who learns the faithlessness of her lover may actually commit murder under the stress of the moment. The normal inhibitions are temporarily swept away. Or crime may occur because of inability to withstand great temptation. The normally honest bank clerk may find it so easy to borrow a small portion of the money that flows through his hands daily in great quantities that when he experiences a pressing need for ready cash he decides to run the risk of detection.

Every penitentiary has a few persons of the kinds already mentioned—normal men and women, perhaps well educated and rich, who are serving prison sentences because of strong passion or an overwhelming desire for greater wealth. But there are large numbers of criminals who are weak in mind or body, or both, poor, uneducated, perhaps addicted to alcohol or drugs, and reared in an atmosphere of chronic disregard for law. Select one of these unfortunates, and trace his life history. Not unlikely you will find a defect of some kind in his heredity. He may be feebleminded, or at least suffering from a defective nervous system. It may be that his physical equipment is poor. He may have poor eyesight, defective hearing or bad teeth, and as a result be nervous, irritable and unable

to adapt himself readily to his environment. Perhaps he is undernourished, and his growth may be stunted. The inmates of prisons seem to be somewhat smaller than other men, though whether this is because of malnutrition or inheritance it is impossible to say. It may be that he has been reared in poverty—perhaps in squalor, and that he has little education. In all probability he never had much of a chance to secure adequate schooling, and lacked all incentive to make the most of the meagre opportunities which came his way. Ask him when he first began his career of crime, and you will doubtless learn that he became a professional criminal long before he reached manhood. At the age of fifteen or sixteen he was probably an expert pickpocket. The boys of his acquaintance doubtless made a serious business of burglary and other crimes just as other boys make a serious business of their games of baseball. He learned to adapt himself to this environment, and found that it offered a way to make a fairly easy living without the disadvantage of uncomfortable physical labor. Probably he does not know how to change his method of living, and sees no good reason why he should make the attempt.

Here is the story of many a criminal. It is useless to say that such a man has deliberately chosen to flout the will of society. The truth of the matter is that he has never had a real opportunity to make any kind of a choice. He has had a seeming chance to shape his destiny, of course, but anyone might have known in advance what his choice would be. Given his physical and mental equipment, his home environment, his playfellows, how could he possibly do otherwise than select the road which led to prison? There is a firm conviction among those who have studied the crime problem most carefully and intelligently that the criminal is just as much a product of his heredity and environment as the law-abiding citizen. He becomes a thief because it is the easiest and most natural thing for him to do; and for exactly the same reason his neighbor, with different physical and mental reactions and different training, remains an honest man. When a

man fails to adapt himself to his environment, and falls ill, we no longer think of blaming him. Years ago sickness was regarded as a manifestation of divine displeasure; today it is looked upon as the result of natural causes. We try to remove the causes, and in the meantime we care for the sufferer as best we can. But when a man fails to adapt himself to his environment, and becomes a criminal, we still cling to the idea of punishment. Would it not be more logical to ascertain the causes of crime, eliminate them wherever possible, and at the same time care for the criminal instead of penalizing him?

Why Do We Penalize Criminals?

The question may well be asked: why should criminals be punished? Why should they be put to death, or forced to spend months or years in prison? Will society be benefited by such treatment? Will some of the milder penalties —fines and short prison terms—improve the criminals and make them more desirable citizens? Or is punishment imposed without any thought of gain, either to society or the offender? The chief reason for punishing criminals is to secure vengeance upon them for the deeds they have committed. The centuries-old doctrine of *an eye for an eye and a tooth for a tooth* still dominates society. "Whoso sheddeth man's blood, by man shall his blood be shed"[6] was written by the prophets of a semi-savage people, and the standards of present-day civilization are not much higher. The man who takes another life must pay for it with his own, or with the loss of his liberty for a long period of years—perhaps until he dies. The man who steals or commits fraud must spend a long time behind prison bars. The punishment rights no wrongs, and benefits no one. But it enables society to satisfy its thirst for revenge.

Some persons, more sentimental or more humane than their fellows, are repelled by the thought of vengeance. They try to persuade themselves that the real reason for punishing criminals is to deter others from following their example. But everyone knows that punishment does not

[6] Genesis 9:6.

deter other persons from entering careers of crime. On the contrary, it actually seems to incite some men and women to criminal deeds. Whenever a crime, however horrible, receives a great deal of newspaper publicity, perhaps through the execution of the culprit, it is commonly followed by a veritable epidemic of other crimes. The fact that one man has been put to death for murder suggests to other persons, strangely enough, that they too should commit murder, rather than that they should be law-abiding. The workings of the human mind are indeed mysterious.

If we really believed that punishment served to restrain, we should give as much publicity as possible to the penalizing of criminals. We should hold our executions in public, so that everyone might see the fate of those who transgressed the law. We should torture men and women to death, instead of mercifully turning on a quick and painless current. Thus potential criminals would be seized with fear, and resolve to conduct themselves properly. For some minor offenses we should flog criminals, so as to cause them great physical suffering. Every flogging should be made a public spectacle. These things were done a few centuries ago, when men actually thought that the punishment of criminals prevented others from following their lead. Yet crime continued to flourish despite all penalties. Executions are no longer public. Punishment is no longer meted out where everyone may be present and witness its effect. Many persons advocate some check upon the extensive publicity which the newspapers give to every sensational crime. This policy is, in effect, an admission that punishment does not deter.

Yet we still penalize criminals. Sometimes it is said that the purpose of putting men into prison is to reform them, and make them better fitted to take their places as useful members of society. Obviously this argument cannot be used to justify capital punishment, life imprisonment, or even very long terms. For the man who is put to death has no opportunity to reform, and the man who must serve a prison term of fifteen or twenty years has no

incentive. Nor is it at all likely that even short terms in prison will cause many criminals to change their ways, and accept society's standards of conduct. "The prison almost invariably tends to brutalize men and breeds bitterness and blank despair. . . . The number of repeaters in prison shows the effect of this kind of a living death upon the inmates. . . . In fact, every person who understands penal institutions—no matter how well such places are managed—knows that a thousand are injured or utterly destroyed by service in prison, where one is helped." [7]

The best argument in favor of keeping criminals in prison is that society must be protected. Most criminals are persons whose methods of living constitute a menace to life and property, and therefore they must be restrained. They must be denied freedom of action for the same reason that we deny freedom of action to those who are insane or suffering from contagious diseases. Properly speaking, they are not punished at all; they are simply restrained because it is unsafe to permit them to remain at large. It may be said that the reason for keeping men behind prison bars makes very little difference; the effect is the same, regardless of the motive. But that is not a fair statement of the case. The effect may be very different. If we put men in jail to cure them of their anti-social malady, then we must logically release them as soon as they give evidence of complete recovery. On the other hand, we may find it necessary to imprison permanently those who seem unable to adjust themselves to the normal relationships of civilization. We may permit the murderer to go free after giving him a severe reprimand, and we may insist upon life imprisonment for the petty thief. Whatever else we do, we must insist that the prisons are transformed into places where criminals are given proper care and treatment according to their needs, instead of being punished for their sins.

Prisons and Jails

Persons sentenced to long terms of imprisonment are commonly committed to prisons controlled by the state.

[7] Clarence Darrow, *Crime: Its Cause and Treatment*, pp. 20-1.

The municipal jails are generally used for the confinement of two groups—those who have been convicted of minor offenses and given short terms, and those who are awaiting trial, regardless of the nature of the offense charged.[8] As a rule the law provides for the separation of these two classes, but in some instances the overcrowding is so great that legal requirements are ignored, and persons charged with crime—presumably innocent, it will be remembered, until proved guilty—are herded into the same quarters as convicted criminals. In other cases, especially in the smaller cities, the jails are unsatisfactory because they have too few inmates, instead of too many. Municipal officials are inclined to question the advisability of constructing a modern jail building and establishing an expensive administrative system for the benefit of a mere handful of misdemeanants.

It has been suggested that the task of providing suitable places of detention for all persons who have been sentenced to imprisonment, whether for thirty days or thirty years, be turned over to the state. There is much to be said for this plan. The state already has a highly developed prison system. Usually opportunity is provided for inmates to work and exercise, and often instruction is given to those who need it. No such facilities are found in the average city jail. They could not be provided, except in the very largest cities, without making an excessive outlay per inmate. Yet it is very important that those convicted of petty offenses be given proper treatment. Nine-tenths of all offenders are in the misdemeanant class. If the state took charge of all convicted persons, the city could use its jail merely as a place of detention for those awaiting trial.

State prison systems have been greatly improved within recent years. There has come a more general realization of the obvious fact that men can never be fitted to return to society by brutal or humiliating treatment. In most prisons the lock step, which was once considered necessary to preserve order, is a thing of the past. Convicts are

[8] Municipal workhouses are far less common than jails. They differ from jails in but two ways—they do not house persons awaiting trial, and they usually provide employment for inmates.

usually fed in a common dining-hall, instead of in their cells. Striped uniforms have generally been abolished. Mail privileges have been extended to most inmates, and visits of friends and relatives are commonly permitted. Every prisoner is given a task roughly suited to his capacity, in so far as possible, and in some of the more progressive prisons small wages are paid, the money thus earned contributing to the support of the prisoner's family, or perhaps accumulating to his credit. There are prison schools and libraries. The denial of coveted privileges has usually been substituted for cruel treatment as a means of dealing with refractory prisoners. A number of experiments have been made with the honor system, and with prison self-government.

Few of these improvements are found in municipal jails. It is commonly assumed that since the inmates of these places are serving only short sentences, the treatment they receive is a matter of little importance. Seldom is any attempt made to classify prisoners. They are placed "in vile cells, and exposed to every kind of moral and physical contagion. They are held in idleness. The first offenders are in cells with hardened criminals; boys with old men; the girl . . . may be in the same cell with the drunken woman of the streets; the runaway boy may be imprisoned with a sexual pervert; the physically clean are compelled to use the same tubs, often the same towels and drinking cups that are used by those suffering from the most loathsome communicable diseases. They may also use the same beds and bedding. Light and air are denied admission, but vermin, rats and seepage enter without difficulty."[9] Yet we expect men to be better citizens because they have served time in such institutions!

The official directly in charge of a jail is known as the warden or superintendent. He may be appointed by the city's chief executive. More commonly, however, he is selected by a prison board, and in that case the chief executive usually chooses the board's members. The board sys-

[9] *The Institution Quarterly*, Ill., Vol. VII (March 31, 1916), pp. 11-12. Quoted by John L. Gillin, *Criminology and Penology*, p. 556.

tem of prison administration is a hangover from the time when virtually all municipal functions were in the hands of boards and commissions; it is a political anachronism that cannot be justified by present-day experience. Especially important is the selection of the warden. His methods may literally make or break the men entrusted to his care. Unfortunately, the office of warden is still regarded as a political plum in many cities, and the men selected to fill it have neither the ability nor the desire to develop constructive policies. Below the warden, and responsible directly to him, are the guards, ranging in number from one or two to several score. Their task is to preserve order and prevent escapes. As a rule they are utterly ignorant of the psychology of delinquency and the technique of prison discipline; all they know has been learned from observation, or perhaps from short conversations with the warden.

Special provision is nearly always made for the treatment of juvenile offenders. Children who seem to be in need of institutional care are sent to separate reformatories, where they are given training which is supposed to be suited to their needs. This training is standardized in some reformatories to such a point that it inevitably fails to meet the requirements of a large majority of the inmates, but in the more progressive institutions an increasing emphasis is being placed on individual treatment. In recent years reformatories have also been established for men and women—perhaps between the ages of eighteen and thirty—who have been sentenced to prison for the first time.

One way to deal with the petty offender is to impose a fine instead of a jail sentence. If a man cannot pay his fine, however, he goes to jail. The result is that thousands of persons are sentenced to imprisonment every year because they do not have, and cannot get, the money necessary to keep them at liberty. At least half of the inmates of American jails are there for non-payment of fines. The constitutions and laws of every state prohibit imprisonment for private debt, yet imprisonment for public debt is accepted as a matter of course. A few states have tried,

with conspicuous success, the plan of permitting misdemeanants to pay their fines on the instalment plan. Payments have been made regularly in the large majority of cases, and men have been saved the humiliation and disgrace of serving terms in jail.

Probation and Parole

During the last few years the probation system has made remarkable headway. It is now used in most cities for adults, and in virtually all cities for juvenile lawbreakers. At first it was commonly related to the suspended sentence. When a person was convicted, the judge might say to him: "You have been found guilty under the laws of this state. The penalty for your offense is so many months or years in prison. However, because you are young, or a first offender, or apparently not a hardened criminal, I shall suspend sentence, and put you in charge of a probation officer. You will thus be given an opportunity to prove that your mistake will not be repeated." A serious defect of this plan was that it limited probation to the period of the sentence imposed. A person placed on probation might need careful supervision for two or three years, but there was no way to fix so long a probation period unless the offense was sufficiently serious to call for a two- or three-year prison term. In a number of cities, therefore, probation has been entirely separated from the suspended sentence. Under this newer plan the judge does not impose any sentence. Instead, he places the offender in charge of a probation officer until supervision seems no longer necessary. Anyone who gets into additional trouble during his probation period is taken at once into court, and at that time sentence is pronounced. The effectiveness of any probation system depends in large measure upon the men selected as probation officers. They should be trained social workers, familiar with the technique of rehabilitating delinquents. They should be well paid, and not overloaded with work. It is essential that every case receive individual treatment, for methods that would be effective with one offender might prove totally unsuited

to the needs of another. If investigation shows that the home environment is bad, steps should be taken to improve it wherever possible. If poor physical condition has played a part in the delinquency, the chief problem may be to find a way of restoring good health. In every instance the offender's normal interests should be found, and their development encouraged. Most cities fall far short of this ideal, however. As a matter of fact, the majority of probation systems are nominal rather than real. It must be confessed that in the average city, at least, any person on probation who reports at regular intervals and manages to escape arrest is practically free to do as he pleases. No serious attempt is made to give his case the individual consideration it deserves.

Over three-fourths of the states have adopted some form of the indeterminate sentence. Strictly speaking, a prison sentence is indeterminate when it has no stated limits, but provides for incarceration for an indefinite period—presumably until a cure has been effected. No state has gone so far, however, as to adopt the principle of the *absolutely* indeterminate sentence. Instead, nearly every offense carries with it a maximum and a minimum penalty. At any time after a prisoner has served his minimum sentence he may be released, but he is required to report to a parole officer at frequent intervals during the remainder of his term. Parole may be used without the indeterminate sentence, though as a rule the two go together. Most of the criminals released on parole keep their pledges faithfully, but a certain number—how many, it is impossible to say—violate their parole agreements and are returned to prison unless they manage to elude the police. There is little doubt that the percentage of parole failures could be greatly reduced by improving parole procedure. Every case should receive careful diagnosis, and men should not be released until there is reason to believe that they have both the ability and the desire to adjust themselves to society's standards. Proper employment, in proper surroundings, should be secured for them. Careful follow-up of every case by trained parole officials is absolutely es-

sential. The board which administers the parole system should be composed of full-time, well paid experts. It might well be transformed into a board of paroles and pardons, for the problem of releasing prisoners on parole does not differ materially from the problem of pardoning them. The short term offenders who are committed to municipal jails are required to serve out their entire sentences; virtually no provision is made for paroling them, regardless of their conduct during imprisonment. Yet many of them would doubtless be better off if they were released before the completion of their jail terms, however short. They should be made eligible for parole.

While it is undoubtedly true that some persons convicted of serious crimes are not habitual criminals, and would make good citizens if permitted to retain their freedom, it is equally true that other men and women, who are perhaps guilty of but trivial offenses, are unfit to remain at large. They are a menace to society. Though they may not have committed murder or robbed banks, they are habitual lawbreakers. Time after time they appear in court, perhaps charged with petty larceny or immoral practices. They may be mentally deficient. Whatever the reason, they constantly violate generally accepted standards of conduct. The laws of many states have long provided for the life imprisonment of such persons. Usually they have stipulated that anyone convicted of four felonies be labeled an habitual offender, and imprisoned for life. But in many cases the phrase "life imprisonment" has had very little significance. Frequently it has meant nothing more than detention for a relatively short period, and then release on parole. In 1926 New York amended its criminal code to prohibit the paroling of habitual criminals—those convicted of felonies for the fourth time. A number of states have since followed its example.

SELECTED REFERENCES

Barnes, H. E., *Some Leading Phases of the Evolution of Modern Penology,* Worcester, 1922.

Brasol, Boris, *The Elements of Crime,* New York, 1927.
Cleveland Foundation, *Cleveland Crime Study,* Cleveland, 1922.
Cooley, E. J., *Probation and Delinquency,* New York, 1927.
Darrow, Clarence, *Crime, Its Cause and Treatment,* New York, 1922.
Evans, Harry C., *The American Poorfarm and Its Inmates,* Des Moines, 1926.
Ford, James, *Social Problems and Social Policy,* Boston, 1923.
Gillin, J. L., *Criminology and Penology,* New York, 1926.
—— *Poverty and Dependency,* New York, 1921.
Gordon, Mary, *Penal Discipline,* London, 1922.
Kelso, Robert W., *History of Public Poor Relief in Massachusetts,* Boston, 1922.
Klein, P., *Prison Methods in New York State,* New York, 1920.
Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 263-80.
Moley, Raymond, *Politics and Criminal Prosecution,* New York, 1928.
—— *The Long Day in Court,* New York, 1929.
Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXXIII and XXXVII.
National Crime Commission, *Criminal Statistics and Identification of Criminals,* New York, 1927.
—— *Propagating Crime Through the Jail and Other Institutions for Short-Term Offenders,* New York, 1928.
Odum, H. W. and Willard, D. W., *Systems of Public Welfare,* Chapel Hill, N. C., 1925.
Osborne, Thomas M., *Prisons and Common Sense,* Philadelphia, 1924.
O'Hare, K. R., *In Prison,* New York, 1923.
Parmelee, M. F., *Poverty and Social Progress,* New York, 1916.
Parole Board of Illinois, *Parole and the Indeterminate Sentence,* Springfield, Ill., 1928.
Parsons, P. A., *Crime and the Criminal,* New York, 1926.
Queen, S. A. and Mann, D. M., *Social Pathology,* New York, 1925.
Robinson, L. M., *Penology in the United States,* Philadelphia, 1921.
Stutzman, J. O., *Curing the Criminal,* New York, 1926.
Sutherland, E. H., *Criminology,* Philadelphia, 1924.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. XVIII and XXII.
Warner, Amos G., *American Charities*, 3rd ed., New York, 1919.
Watson, F. D., *The Charity Organization Movement in the United States,* New York, 1923.
Wines, Frederick H., *Punishment and Reformation,* 2nd ed., New York, 1919.

Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chap. XXXIII.
Zollman, Carl, *American Law of Charities,* Milwaukee, 1924.

Federal Council of the Churches of Christ in America, *Information Service,* Vol. VII, No. 11, March 17, 1928.
Jones, Arthur W., "The Problem of Poor Relief Administration in Municipalities," *Virginia Municipal Review,* April, 1927.
Oliver, John R. "Criminology and Common Sense," *Journal of Criminology and Criminal Law,* February, 1926.
Swearingen, H. C., "The Indeterminate Sentence and Parole from the Viewpoint of a Parole Commissioner," *Proceedings of the American Prison Association,* 1922.

Vol. CV of the *Annals of the American Academy of Political and Social Science,* January, 1923, is devoted to *Public Welfare in the United States.* Vol. CXXV, May, 1926, is entitled *Modern Crime: Its Prevention and Punishment.*

CHAPTER XXVII

HEALTH AND HOUSING

Health

Every city makes more or less adequate provision for protecting the health of its inhabitants, and for treating them when they become sick. It is only within recent years, however, that public health activities have been listed among the functions of municipal government. Though Philadelphia established a board of health in 1794, and New York and Boston followed its example within five years, these cities were the exceptions. In all the cities of the United States there were probably not half a hundred public health agencies as recently as 1880. In fact, no vital need for such agencies existed. The care of the sick poor was generally considered a proper matter for private philanthropy, and preventive work was necessarily very crude. Lacking an exact knowledge of the causes of disease, municipal health officials were powerless to check the spread of many virulent diseases which modern medical science has found to be readily preventable.

In 1866 the work of Pasteur laid the foundation for the germ theory of disease. The application of this theory has demonstrated beyond doubt that virtually all communicable diseases prevalent in the United States may be controlled by means of proper regulatory measures. It is scarcely going too far to say that within reasonable limits any city may now determine what its death rate will be. Recognition of this fact has changed the emphasis in public health work from sickness treatment to sickness prevention. Municipal health departments have changed their organization accordingly. Since 1900 most of them have added bureaus or divisions dealing with the control of communicable diseases, protection of child health, inspection of

food and water supplies, and of buildings where unsanitary conditions might be expected to prevail, collection of vital statistics, and education of the public with regard to health matters.

The protection and maintenance of public health is regarded by most persons as primarily a matter of state concern. This attitude can readily be justified, for failure to enforce proper sanitary regulations in one community may have most serious consequences in every other community of the state. Epidemics show no hesitancy in crossing municipal boundaries, and they cannot be kept under control unless minimum public health standards are universally enforced. In most states, therefore, the work of municipal health departments is scrutinized more or less carefully by state officials. The amount of state supervision and control varies greatly. In some states the legislature prescribes in detail the exact organization of local health units, even fixing the exact number of health officials, their qualifications, tenure and salaries. Minimum standards are rigorously enforced, and virtually every important act of local officials must be approved by the state board of health. In other states the cities are left to do practically as they see fit, state supervision being exercised only with regard to such matters as the registration of vital statistics. The experience of a number of commonwealths shows that the best course probably lies somewhere between these two extremes. The state should make and enforce minimum standards, but every community should be permitted to determine for itself the exact manner of carrying out state policies. Municipal officials should look to the state health department for advice and criticism, rather than for orders. Of course, no state attempts to straitjacket local health officials completely. State standards are always *minimum* standards, and a city is free to go as far beyond as it may see fit. Some of the larger metropolitan centers have actually established standards considerably higher than those imposed by the state, and have undertaken activities not included in the state program.

Organization of the Health Department

There is no general agreement as to the proper organization for municipal health work. In some cities the health department is given full control over all health matters, including both the prevention and the cure of disease. At first thought this would seem a logical arrangement, but many health officers contend that to entrust preventive and curative activities to the same man or group of men is to insure the subordination of the preventive aspects of health work. For the public is primarily interested in the sickness that already exists, and concerns itself but little about future dangers. Its attitude may influence the head of the health department, and he may give an undue proportion of his time and energy to the immediate problem of providing for the sick. On the other hand, there can be no doubt that when responsibility for a city's health program is divided among several agencies, efficiency is lessened. This is true of New York, which has four independent departments handling various municipal health activities, and of Boston, where responsibility is even more scattered. Some cities, especially those which have adopted the commission and manager forms of government, make the health agency a part of the department of public welfare. Cleveland, for example, has a welfare department which administers the division of health, city farm, city infirmary, tuberculosis hospital, city hospital, boys' home, girls' home, correction farm, employment division, and some other related activities.[1]

During 1921 the American Public Health Association and the United States Public Health Service co-operated in a study of the health departments of American cities. On the basis of this investigation, a health organization suited to the needs of a city of one hundred thousand population was proposed. Naturally, this organization does not fit exactly the requirements of every large city. Local

[1] For a good discussion of municipal health organization, see Carl E. McCombs, *City Health Administration*, pp. 12-60.

conditions may justify a number of changes. But the general plan is of sufficient importance to warrant reproduction at this point:

Municipal Department of Health[2]

1. Bureau of administration
   a. Division of administration
   b. Division of public health education
2. Bureau of sanitation
3. Bureau of foods
   a. Division of milk
   b. Division of foods
4. Bureau of communicable diseases
   a. Division of epidemiology
   b. Division of tuberculous disease
   c. Division of venereal diseases
5. Bureau of child hygiene
   a. Division of infant hygiene (including pre-school age)
   b. Division of school hygiene (including the control of working paper procedure)
6. Bureau of nursing
7. Bureau of laboratories
8. Bureau of vital statistics

Many cities still make use of the board system for health administration. Board members are commonly chosen by the chief executive, perhaps with the consent of council. The law frequently provides that one or two members of the board must be physicians; occasionally this requirement applies to all members. Terms of office range from one year to six years or more; board members are commonly unpaid. The president of the board, chosen by the other members, is nearly always a physician. Students of public health work are generally agreed that better results would be accomplished if boards of health were everywhere abolished, and complete responsibility vested in individual health officers. Boards are primarily deliberative bodies, and in the field of public health quick action is often essential. Dr. McCombs cites the case of a board which took two days to come together and decide that a person suspected of smallpox should be quarantined. Dur-

[2] *Public Health Bulletin*, No. 136 (July, 1923), p. 249. U. S. Public Health Service.

ing those two days a number of unvaccinated persons became infected.[3]

Every city has a health officer in direct charge of its health activities. If there is also a board of health, he is chosen by that board; otherwise he is usually selected by the city's chief executive. Almost invariably he is a physician, and quite commonly he is a part-time man with a private practice. In the very small cities a part-time arrangement may be necessary, but after a municipality acquires a population of twenty-five thousand it needs the full-time services of a competent physician. When a man tries to serve both the city and his private patients at the same time, he is almost certain to neglect his official duties occasionally. Moreover, as health officer he may be called upon to take some action which injures his personal interests, and there is no certainty that he will put the public welfare first. Yet fully one-third of the largest American cities—those with populations in excess of one hundred thousand—still employ part-time health officers.

One widely accepted idea which it will be necessary for cities to discard is that any man trained as a physician is thereby qualified to serve as a municipal health officer. Public health management is coming to be recognized as a separate profession requiring additional training and experience which the average physician never obtains. A number of the larger universities now offer courses which lead to the degree of doctor of public health, and some of the more progressive cities require their officers to possess this degree or its equivalent.

Communicable Disease Control

The problem of controlling communicable diseases is not easily solved. There are a number of factors which complicate this phase of public health work. For one thing, every community has its share of unrecognized disease carriers—persons who carry in their systems the germs of virulent diseases, apparently without harm to themselves, but with disastrous results for those with whom they come

[3] Carl E. McCombs, *op. cit.*, p. 43.

in contact. To find these men and women and segregate them, so that they will spread no more contagion, is a difficult task. Then, too, a large number of mild cases are never reported to the health authorities. Doctors do not learn of them, or fail to recognize them. Yet a person suffering from a very slight case—of smallpox, for example—may transmit the disease to someone else in its most dangerous form. Moreover, many diseases are highly contagious in their early stages, before they have developed the characteristic symptoms which make identification easy. Communicable disease control is also hampered by the opposition of the public and the inertia of the lawmakers. Smallpox could be practically eliminated by the universal adoption and enforcement of laws requiring all persons to be vaccinated. Yet a great many states do not have compulsory vaccination laws, and a great many persons regard such laws as an infringement upon their rights. Blindness due to gonorrheal infection could be absolutely prevented by bathing the eyes of new-born infants with a silver nitrate solution, but in a number of states doctors and midwives are not required by law to take this simple precaution.

The first step in any comprehensive program of communicable disease control is to require physicians and others to report all cases which come to their attention. Such laws have been universally adopted, but in a number of communities they are not strictly enforced. Moreover, they are sometimes worded so vaguely that they allow an unnecessary amount of leeway. A physician may be able to report a case of scarlet fever or diphtheria several days after it first comes to his attention, and still keep within the letter of a law requiring notification "immediately on diagnosis." Within the last few years, however, there has been an increased emphasis on prompt reporting, and pressure has been brought to bear on dilatory practitioners. Sometimes the law places an additional burden on physicians by providing that notification must be made of certain diseases which are not communicable—chiefly occupational diseases such as lead poisoning, arsenic poisoning,

mercury poisoning and caisson disease,[4] and also a few diseases whose origin is still unknown—cancer and pellagra, for example. The purpose of this requirement is to enable the health authorities to learn more about these diseases, so that their spread may be checked.

After a communicable disease has been reported to the municipal health department, the physician's diagnosis is confirmed by examination of the patient, and by laboratory tests if necessary. The patient is then isolated from other persons if this precaution seems advisable, and his treatment is supervised. Exposed persons are placed under quarantine, and perhaps immunized against the disease. Immunization is the rule with such diseases as smallpox, diphtheria and typhoid fever. After the sickness has run its course, and the patient has entirely recovered, he may be released from control. First, however, his person, clothing and bed linen must be disinfected. In some communities it is still the practice to fumigate the premises, but a great many health officers have come to the conclusion that fumigation is largely a waste of money. The germs of disease do not live long outside their normal human environment. Expose them for a short time to fresh air and sunshine, and they will die.

One of the most serious problems confronting the health authorities of every city is the control of gonorrhea and syphilis. Thousands of persons are reported as dying from improper functioning of the heart, kidneys or nervous system, when the original cause of the trouble is venereal infection. A startlingly large number of persons are so infected at some time during their lives. Some authorities place the figure as high as sixty per cent of the entire male population. Among females, of course, infection is not so prevalent. The municipal health department is handicapped at the very outset by the fact that a great many cases—probably the large majority—never come to its attention. Strict enforcement of the law requiring phy-

[4] Caused by breathing compressed air for long periods. Underwater workers who build bridge piers and the like are frequently the victims of caisson disease.

sicians to report promptly and fully will accomplish a great deal, but obviously it can have no effect upon those persons who fail to seek medical advice and treatment. Good results can be obtained by establishing a municipal venereal disease clinic, which keeps its doors open at night as well as during the day hours, and gives free treatment to those who cannot afford to pay. In connection with such a clinic it is important to have a staff of trained investigators for follow-up work. Otherwise patients are likely to discontinue treatment as soon as they are free of physical discomfort, though they still carry the disease germs in their systems.

Child Health Problems

In recent years problems of child health have been given special attention by nearly all cities. New York City established a division of child hygiene in its health department in 1908, and its example has been widely followed. An attempt is made to protect the health of children from the day of birth, and even before. In many cities there are prenatal clinics, where free information is given concerning the proper care of mother and child. The names of expectant mothers are obtained whenever possible, and home visits are made by trained nurses. One important aspect of the child hygiene division's duties is the supervision of midwives. It is customary to require all midwives to register with the health authorities, and to inspect their places of business from time to time in order to make certain that they are not in possession of prohibited drugs or surgical equipment. If they are ignorant and unskilled, as is frequently the case, they are given special courses of training.

When the health department receives word of a child's birth unattended by physician, it usually sends a nurse to the home to find out whether the mother knows how to care for her baby and herself. A tactful nurse can make valuable suggestions without giving offense. Of course, if a private physician is attending the case, the nurse reports first to him, and takes only such steps as he may think

desirable. Whatever the plan of approach, there should be adequate provision for continuous supervision of child health during the pre-school period. Within the last few years many American cities have established child health clinics. Parents are encouraged to bring their children for medical inspection, and physical defects are pointed out. The doctors and nurses of the clinic emphasize the necessity of treating these defects at once, before they have opportunity to cause serious trouble.

The importance of supervising the health of schoool children has long been recognized. Nearly forty years ago New York City made provision for medical inspection of children in the schools, and virtually every city has since fallen into line. Sometimes this work is in charge of the health department; sometimes it is controlled by the board of education. School physicians are usually part-time employees. They visit the schools at regular intervals, sending home children who have communicable diseases and making a record of those who are found to have physical defects. If the defects are of such a nature that they can be remedied, parents are notified. Many cities have school nurses who keep in touch with the parents, and point out why the correction of defects is essential.

State laws commonly provide that a child may not obtain regular employment until he has reached a certain age and perhaps completed a specified amount of school work. They frequently stipulate in addition that he must be physically fit. The examination to determine physical fitness is made by a school doctor. It frequently reveals physical defects of a remediable nature, such as diseased tonsils or adenoids, faulty teeth or eyes, which have been reported to parents years before without result. The school physician should refuse to approve the issuance of the necessary work permit until steps have been taken to remove these barriers to normal health.

Municipal health officials share with the agents of the state and federal governments the responsibility for enforcing pure food requirements. Nearly every city has its own code of sanitary regulations, and municipal inspectors

commonly visit from time to time the places where food is sold. If unsanitary conditions are discovered, the first step is to issue a warning. After that, if necessary, the license of the offending establishment is revoked. The inspection of milk, meat and other food supplies is sometimes entrusted to the local health department. Milk inspection is especially important because of the serious dangers that lurk in an infected milk supply,[5] and also because of the ever-present temptation to add water or preservatives.

Public Health Conservation

An important part of the work of every city health department is the education of the public in health matters. The educational program may take a number of different forms—annual reports, special monthly or weekly bulletins, lectures, exhibits, news articles, motion pictures. There is no general agreement as to the best ways of arousing popular interest, but it is universally admitted that public co-operation is essential to the success of any public health enterprise. Members of the community must be made to realize that the responsibility for improving present standards rests largely on their shoulders. In more than one city the health department maintains a regular lecture service, which is available to civic organizations, women's clubs, churches, labor forums and the like. Educational campaigns, such as clean-up week or better baby contests, sometimes prove very effective in stimulating popular interest.

Municipal health officials must have ready access to a well-equipped laboratory. As a rule the laboratory should be city-owned, though sometimes it is possible for a strategically located city to make use of the laboratory facilities furnished by state or county. Very small communities occasionally unite to establish and operate a joint laboratory. More commonly, reliance is placed on local hospitals or medical schools. In any event, the laboratory meets a

[5] The germs of tuberculosis, typhoid fever, septic sore throat, diphtheria and scarlet fever are frequently found in great quantities in raw milk.

number of different needs. It enables the physicians of the health department to examine the body tissues, secretions and excretions of persons suspected of having disease. It permits them to examine water, milk, meat and various other foods. It serves as a storehouse of vaccines, antitoxins and the like. Without a laboratory, adequate enforcement of municipal health regulations would be virtually impossible.

In almost every state the law requires registration of births and deaths. A record must also be kept of communicable diseases. This information is of great value to the health department. The list of new-born babies enables it to keep in close contact with mothers at this critical period of their lives. The list of deaths serves as a rather crude index of the efficiency of various phases of its work. By means of the contagious disease record it can frequently detect threatened epidemics in time to prevent their wide spread. The health department, therefore, is the logical agency for the collection of all vital statistics. In many cities, however, this work is still entrusted to the city clerk or other lay officials. Moreover, some of the data are kept in such a way that they are of little value for health department purposes.

The municipal health officials are commonly charged with the task of enforcing those provisions of the housing laws which prohibit unsanitary living conditions.[6] In addition, especially in the smaller cities, they are frequently burdened with a great many other duties which have little or no connection with public health. They may be asked, for example, to prevent such street nuisances as uncut weeds, accumulated garbage, unshoveled snow. To overload them with unrelated functions in this manner inevitably hampers the efficient administration of all health activities.

A few decades ago the cities of the United States spent virtually nothing for health conservation. Today they are spending nearly one dollar per person annually.[7] It is but

[6] See p. 651.

[7] The 1926 figure was 94 cents per capita. *Financial Statistics of Cities*, 1926, p. 320.

natural, therefore, to ask whether there has been any definite return for this outlay. The answer to that question is readily given. Health work can show a record of accomplishment which compares favorably with any public activity. In less than a quarter of a century the death rate has decreased twenty-six per cent.[8] Several years have been added to the average span of life. Most communicable diseases have been brought under control. The death rates from scarlet fever and smallpox, for example, are about one-fifth as high as at the beginning of the century. Malaria and typhus fever have been virtually eliminated. Severe epidemics of diphtheria, typhoid fever and measles are now almost unknown. In proportion to the population, tuberculosis takes a toll of two lives for every five it took in 1900. Here is abundant proof that the health dollar has been spent to advantage.

Every sound discussion of public health work must emphasize the importance of sickness prevention. But mention must also be made of sickness treatment, for municipal officials are beginning to realize that the care of the sick cannot be left entirely to private initiative. Even yet, however, there are only about six hundred city-owned hospitals in the United States, as contrasted with more than six thousand under private ownership. Many of the municipal hospitals are specialized institutions. They may take only cases of dangerous communicable disease, or they may be restricted to tuberculous patients. A few of them are general hospitals, taking the place of private institutions or supplementing their work. Service is free to those who cannot pay.

Many American cities make direct appropriations to private hospitals. Sometimes these appropriations are very large, and make possible a considerable expansion of private activities. Quite as often they are pitifully small —little more than tokens of good will. Whether large or small, however, they are commonly meted out on some arbitrary basis, without any attempt to determine whether the recipients are performing a commensurate social

[8] This figure is for the U. S. death registration area.

service. Hospitals with low standards may actually receive larger subsidies than those whose standards are maintained at a consistently high level. Hospitals which make but limited provision for the free care of the sick poor may be treated more generously than those which provide many free beds and ample free dispensary service. In recent years some of the more progressive cities have discarded this hit-or-miss policy, and have adopted in its place the more satisfactory plan of subsidizing private hospitals on the basis of the actual cost of the free service rendered by them to the public.

Most of the free dispensary work in American cities is still done by private hospitals. A considerable number of municipalities, however, have general dispensaries of their own, in addition to the special venereal disease or child hygiene clinics already mentioned. Poor doctors—that is, physicians paid by the city to devote some time to the treatment of the sick in their own homes—are less numerous than formerly, owing, at least in part, to the wide spread of dispensary service.

Housing

The health of a city's inhabitants is closely related to the homes in which they live. Every study of housing conditions in the cities of America and Europe discloses an astonishingly high death rate and an almost unbelievably large amount of sickness in houses—especially of the tenement variety—where men, women and children are herded together like cattle, and fresh air and sunlight are at a premium. A few years ago the United States Children's Bureau made an intensive investigation of child health in Johnstown, Pennsylvania. It found that the mortality rate among babies who slept in poorly ventilated rooms was almost exactly six times as high as among infants who slept under more healthful conditions. A somewhat earlier study in Scotland among school children showed that boys from four-room homes were more than eleven pounds heavier, on an average, and nearly five inches taller, than boys from homes of but one room. Among the girls the

differences were even more marked.[9] Everywhere the story is the same. Contagious diseases are spread much more rapidly in the congested areas. Tuberculosis is rapidly becoming a slum disease. The city slum is a breeder of disease, a destroyer of vitality, an arch-enemy of health.

Equally serious, it is an acute menace to family life, breaking down established moral standards and leading naturally to sexual perversion. When a family of five or six persons, including perhaps older children of different sexes, is housed in one or two rooms, making it impossible to have even the slightest degree of privacy, and when the meagre family income is augmented, as it frequently is, by taking in a lodger or two, the result is very likely to be moral deterioration. Very young boys and girls acquire a morbid knowledge of sexual matters, and older children are subjected to temptations which many of them cannot resist.

Housing in the Great Cities

The housing problem is especially serious in the great cities—New York, Chicago, Philadelphia, Boston and perhaps two dozen other metropolitan centers. In these municipalities the need for decent living accommodations is acute, and the problem of providing them is very difficult of solution. New York, especially, faces a task of stupendous magnitude in its efforts to improve housing conditions. The words of Lawrence Veiller, written nearly twenty years ago, are still applicable to conditions in that city: "The conditions in New York are without parallel in the civilized world. In no city of Europe, not in Naples nor in Rome, neither in London nor in Paris, neither in Berlin, Vienna nor Buda Pesth, not in Constantinople nor in St. Petersburg, not in heathen Canton nor Bombay are to be found such conditions as prevail in modern, enlightened, twentieth-century, Christian New York. In no other city is the mass of the working popula-

[9] For other examples of the close relationship between housing and health, see Carol Aronovici's *Housing and the Housing Problem*, pp. 8-13.

tion housed as it is in New York, in tall tenement houses, extending up into the air fifty or sixty feet, and stretching for miles in every direction as far as the eye can reach. In no other city are there the same appalling conditions with regard to lack of light and air in the homes of the poor. In no other city is there so great congestion and overcrowding. In no other city do the poor suffer so from excessive rents; in no other city are the conditions of city life so complex."[10] A scathing indictment, yet one that is richly deserved. As recently as 1926 Walter Stabler told the United States Chamber of Commerce: "New York City, particularly the Borough of Manhattan, has thousands of old houses, many of them fifty years or more old, of the most primitive planning and construction, which the wear and tear of generations have steadily depreciated until they have become shameful places in which to house human beings—places where filth and squalor almost indescribable constantly exist, with no possible hope for improvement or betterment of any kind except destruction of the buildings. These so-called homes for the poor are mostly five-story buildings on lots twenty-five feet in width by one hundred feet in depth, the houses being from fifty to eighty feet in depth, with no light or ventilation except from the windows on the street and on the yard. Many houses of a little later date have what is called a light shaft about the middle of each side of the houses, these shafts being from five to six feet in width by twelve feet in depth, frequently so narrow that it is possible to step from the windows of one home to those of the next one. Sanitary arrangements are simply unspeakable. One or two toilets on each floor supply the needs of two to four families frequently numbering from fifteen to twenty-five persons. Many old houses have only toilets in the yards, although most of these have been replaced by those on the several floors. Water-supply in large numbers of houses is obtained from one outlet on each floor in the public hall. Later-built houses have a sink with cold

[10] *Housing Reform*, pp. 7-8.

water only in each kitchen, hot water being obtained by heating on the kitchen range.''[11]

It must not be assumed, however, that even the smaller cities—those with populations not exceeding forty or fifty thousand—have satisfactory housing conditions. They have their overcrowded lots and overcrowded rooms, dark rooms and damp rooms, lack of water, lack of sanitary conveniences, houses in every state of decay, with fire hazards that are excessive. Cellar dwellings are still sometimes permitted, and while a relatively few cellars are fit for human habitation, the large majority are not. The ideal of running water in every separate apartment is still a long way from realization, and even today many persons seriously contend that bath tubs are luxuries instead of necessities. Under such circumstances cleanliness is not only next to godliness—it is next to impossible. It has been estimated that one-third of the people of the United States live under subnormal housing conditions, and that about one-tenth live under conditions which are a serious menace to health and morality.[12]

Municipal Housing Laws

It is necessary, therefore, for government to take a hand. Nearly every city has a code which specifies minimum standards of building construction. This code applies, of course, to stores and factories as well as to homes, but its provisions may be so framed as to produce vastly improved housing conditions. For example, it may prohibit windowless rooms, uncemented cellars, wooden tenements. In addition to these minimum building specifications, the average municipality has a series of regulations concerning the equipment of buildings, and imposing conditions under which they may be occupied as homes. These regulations may be made a part of the building code, incorporated in a separate housing code, or merely added to the health ordinance.

[11] Quoted in Louis H. Pink's *The New Day in Housing*, pp. 95-6.
[12] Wood, Edith E., *The Housing of the Unskilled Wage Earner*, pp. 6-7.

The housing law of a city—using this term to cover all its housing rules except the zoning ordinance, whether or not they have been brought together in a single code—is a very comprehensive affair. It deals both with construction and with maintenance. The provisions concerning construction are commonly grouped under three heads: light and ventilation, sanitation, fire protection. Under the title of *light and ventilation* are usually found limitations on the amount of lot space which may be used for building purposes, unless this matter has already been covered by zoning. Here, too, are placed requirements concerning minimum height and floor space of rooms, and minimum window space. Some cities stipulate that every room in a dwelling must have at least one window opening to the outer air, but a great many municipalities are still unwilling to go so far. The *sanitation* requirements of the housing law deal with such matters as water supply, toilet facilities, sewer connections, drainage of yards and courts. Sometimes running water in every apartment of a tenement house is made mandatory, but frequently the law merely provides that there must be running water on every floor, accessible to all families. The provisions of the building code designed to *prevent fires* have already been discussed in another connection.[13] Wooden tenements are commonly prohibited, and there are clauses concerning fire escapes, stairs, elevator and dumb waiter shafts. Then there are miscellaneous safety requirements, covering excavations and foundations, use of steel, timber, concrete and the like, and specifying the exact procedure in building operations. When new buildings are constructed, the enforcement of all these provisions is simply a matter of securing adequate inspection. Already existing buildings, however, present a more difficult problem—especially the overcrowded tenements built three or four decades ago, when people had a very different concept of what constituted a minimum standard of decent living. There are tenements in almost every large city so far below the minimum requirements for new construction that the ex-

[13] See pp. 546-7.

pense of putting them in proper condition would be prohibitive. The only proper way to treat such buildings is to prohibit their use as dwellings. In many cities, however, the housing laws are unduly lenient. The New York tenement house law, for example, permits an inside room to be used as a bedroom if it is connected by a window with a room which opens to the outer air. As a result of this provision, thousands of windows have been cut through thousands of room partitions, making the inside rooms legally light, but leaving them actually almost as dark as before.

The maintenance provisions of municipal housing codes are designed to insure the proper upkeep and use of properly constructed homes. They commonly stipulate that cellars must be whitewashed, roofs kept in repair, and fire escapes unencumbered at all times. In addition, they usually prohibit the keeping of horses, cows, swine and poultry in tenements. Such a prohibition has been found necessary. With respect to air space, a minimum number of cubic feet per person is generally required—perhaps four or five hundred for every adult, and two or three hundred for every child. These air space provisions are essential,[14] yet the difficulty of enforcing them is obvious. If a family of four lives in a single room, the enforcement officer can readily take the dimensions of the room and find whether it contains a sufficient number of cubic feet of air. But how can he tell whether one or two lodgers also use the room at night? The practice of taking lodgers has become very widespread among the tenement dwellers of the large cities. Rents are so high that in many cases there seems to be no other way of balancing the family budget. Needless to say, this "lodger evil," as it is generally called, presents a serious social problem. It destroys the privacy of the home, and makes normal family life virtually impossible. It leads naturally to the violation of accepted standards. Thousands of young women

[14] It must be admitted, however, that the flat air space requirement is a very crude way of providing for an adequate air supply. A small room which opens directly on a broad street may make a much more satisfactory bedroom than a larger room which opens on a narrow court. But it is difficult to devise a better standard.

are degraded every year in their own homes by male lodgers, with whom they must necessarily associate on terms of enforced intimacy. One of the worst aspects of the lodger evil is the difficulty of curbing it. It is a simple matter to enact drastic legislation, but the adequate enforcement of such legislation is an almost impossible task. If inspections are made, they must be carried on at night. A veritable army of inspectors is needed. And even then it is very difficult to detect violators, for lodgers soon learn the trick of moving out on the fire escapes while inspections are in progress. Better results could doubtless be obtained by abandoning such inspections altogether, and holding the landlords directly responsible for any overcrowding.

Two or three separate agencies of the city government are usually charged with the task of enforcing the different sections of the housing law. Those provisions which refer to construction and fire protection are commonly placed under the care of a bureau or division of building inspection. Matters of a sanitary nature, such as light and ventilation, water supply and plumbing, are generally entrusted to the health department. These two agencies sometimes share the responsibility for enforcement with the police department or the fire department, or both. New York City has concentrated most of its supervisory and inspectional activities concerning tenements in a single division of the city government known as the Tenement House Department. This plan gives reasonable satisfaction, and might well be copied by other metropolitan centers. Housing authorities are generally agreed, however, that unless a city has a great many tenements—one distinguished writer places the figure as high as twenty-five thousand [15]—there is no need for it to create a separate tenement house department. The average city can secure best results by providing for the co-operation of the bureau of building inspection and the health department.

One of the most serious defects of municipal building codes is their lack of uniformity. Some are long; others are short. Some are indexed; others are not. Some are

[15] Lawrence Veiller, *op. cit.*, p. 128.

needlessly complex; others attain simplicity by omitting essential provisions. Some are expressed in general terms; others are very specific. Equally unfortunate, there is no uniformity of arrangement. The result is that an architect or engineer finds himself greatly handicapped when he tries to expand his activities beyond his own city. No matter how small or unimportant the building, he must spend long hours studying new legal provisions which are likely to be classified according to some plan with which he is unfamiliar.

Every housing law presents a twofold problem. It must be sufficiently strict to prevent the building of homes which are structurally unsafe, poorly ventilated and lighted, unsanitary, and veritable firetraps. On the other hand, it must not be so drastic that it virtually puts a stop to the building of cheap homes. It must of necessity be a compromise between what is desirable and what is practicable. It must be based on a recognition of the obvious fact that a considerable percentage of the people of every city are but little above the border-line of poverty, and greatly prefer low rentals to vastly improved living conditions. The chief result of an unduly stringent housing law may be a housing shortage.

Emergency Rent Laws

Aside from the enactment of laws governing the construction, maintenance and occupancy of houses, American cities have done very little to improve housing conditions. They have done almost nothing to secure reasonable rents. But there have been some exceptions. In the years directly following the close of the World War, when there was an acute housing shortage and rents were excessively high, the New York legislature enacted an emergency rent law, applying to the larger cities of the state. Congress enacted similar legislation for the national capital. These laws were designed to protect tenants against profiteering. The Washington law created a rent commission, and empowered it to fix reasonable charges for the rental of property. The New York law, approaching the problem from

a different angle, provided that in any suit by a landlord to recover unpaid rent, the tenant might set up as a defense that the rent was extortionate and unfair. The task of determining what constituted a "fair" rental was thus given to the courts. These laws, frankly enacted to meet a temporary emergency, have since been repealed. As permanent legislation they would probably be overthrown by the courts.

New York's Experiments

New York has recently attempted to stimulate the building of suitable living quarters for the poor by authorizing the creation of privately financed, publicly supervised, limited dividend housing companies. This law, passed in 1926, permits any group of persons to organize as a limited dividend company, and construct tenement houses which meet with the approval of the state board of housing. In order to attract private capital, the state offers freedom from state taxation, and also the right of eminent domain in order to secure needed land at a reasonable price. New York City also makes a contribution in the form of exemption from municipal taxation.[16] But the return on the private capital invested is limited to six per cent. Rentals are fixed at a very low figure—twelve dollars and a half a room per month in Manhattan, and even less elsewhere. By the middle of 1929 this legislation had accomplished comparatively little. It had resulted in but six approved projects, some of them sponsored by co-operative groups of tenants, and others backed by men and women who were interested in the housing problem. It had not induced a considerable number of private builders to forego the opportunity of making big profits. But in all fairness it must be said that the plan had not been in effect for a sufficient period to warrant definite conclusions. The prospect of a certain degree of tax exemption may yet prove alluring to commercial home builders, though many careful students are skeptical.

[16] The phrase "tax exemption" is misleading. The only state taxes estimated are on mortgages and franchises, and the municipal exemption applies only to buildings, not to land.

New York City has given serious consideration to a proposal to use its power of excess condemnation in connection with street improvements for the purpose of buying up tracts of land on either side of widened streets and leasing them to private builders at a very low figure—just enough to pay interest charges and to amortize the principal over a period of ninety-nine years. It is freely predicted that in this way tenements can be built to rent for considerably less than current rates—some optimists estimate as low as eight dollars a room per month. Of course, this scheme would do little more than touch the surface of the housing problem. At best it would provide decent housing accommodations for but a few of Manhattan's million tenement dwellers. And the question may well be asked: how are those few to be selected? Who is to determine which families shall be given the privilege of new tenements at rentals far below the market rate? The possibility of using these tenements as a form of patronage is obvious. They might be allotted to those who had labored faithfully in the service of Tammany.[17]

Municipal Housing

European cities frequently undertake large scale housing projects, using their own funds to build small homes for working people. When the houses are completed they may be sold on easy terms, or perhaps rented. Sometimes they are turned over to private housing companies, under strict public supervision. In the United States, however, municipal housing has never been able to get a foothold. There is a widespread belief, not without foundation, that city administrators ought not to be given new functions, involving the expenditure of millions of dollars, until they are able to give a more satisfactory accounting for the services already in their care. In Europe municipal administrators are almost invariably technicians; in America they are very frequently politicians. This difference is sometimes forgotten by those who advocate municipal housing in this

[17] See Lawson Purdy's able article, "Subsidized Housing in New York," published in the November, 1927, issue of the *National Municipal Review*.

country on the ground that it has been successful in the cities of England and Germany. Moreover, the statement that European schemes have been successful is flatly contradicted by some writers.[18] It is not easy to get the real facts, for municipal bookkeeping, like human speech, is all too often a means of concealing the truth.

The chief cause of housing congestion is the natural desire of workers to be near their places of employment. Most men and women, especially of the poorer classes, are unwilling to spend a great deal of time and money traveling between their homes and the factories, shops or offices where they work. Some of them could undoubtedly be tempted to move into the suburbs, where land is cheaper and housing problems are relatively simple, by means of high speed transit lines and lower fares. But the only way to get the majority of the slum dwellers out of their present environment would be to uproot bodily the factories and warehouses where they are employed. The tendency of industry to desert the downtown section of high land values for outlying districts where land is relatively cheap is already quite marked in many communities, but no one knows whether it will continue. One thing is obvious, however: every city should at once make certain that the congested housing conditions of its present slum district will never be duplicated in the communities of workers' homes which may some day spring up in its suburbs alongside suburban factories. This it can do by means of a carefully prepared plan and a comprehensive zoning law.

SELECTED REFERENCES

American Child Health Association, *A Health Survey of 86 Cities,* New York, 1925.

—— *A Half-Century of Public Health,* New York, 1921.

Aronovici, Carol, *Housing and the Housing Problem,* Chicago, 1920.

Baker, S. J., *Child Hygiene,* New York, 1925.

Burnham, A. C., *The Community Health Problem,* New York, 1920.

Clark, Janet H., *Lighting in Relation to Public Health,* Baltimore, 1924.

[18] See, for example, W. B. Munro, *Municipal Government and Administration,* Vol. II, p. 292.

Gillman, J. M., *Housing Rents in Pittsburgh,* Pittsburgh, 1926.
Hemenway, H. B., *American Public Health Protection,* Indianapolis, 1916.
Hill, Herbert W., *The New Public Health,* New York, 1922.
Horwood, M. P., *Public Health Surveys,* New York, 1921.
Knight, C. L., *Negro Housing in Certain Virginia Cities,* Richmond, 1927.
Knowles, Morris, *Industrial Housing,* New York, 1920.
Luckett, G. S., *Elements of Public Health Administration,* Philadelphia, 1923.
MacKenzie, Clinton, *Industrial Housing,* New York, 1920.
MacNutt, J. S., *Manual for Health Officers,* New York, 1915.
McCombs, Carl E., *City Health Administration,* New York, 1920.
Moore, H. H., *Public Health in the United States,* New York, 1924.
Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXXV and XXXVI.
Murphy, J. J., Wood, E. E. and Ackerman, Frederick, *The Housing Famine,* New York, 1920.
Newman, B. J., *Housing in Philadelphia,* Philadelphia, 1924.
Overton, F. and Denno, W. J., *The Health Officer,* Philadelphia, 1919.
Parkes, L. C. and Kenwood, H. R., *Hygiene and Public Health,* 7th ed., Philadelphia, 1923.
Pink, Louis H., *The New Day in Housing,* New York, 1928.
Porter, Charles, *Elements of Hygiene and Public Health,* New York, 1917.
Price, G. M., *Hygiene and Sanitation,* New York, 1922.
—— *Hygiene and Public Health,* Philadelphia, 1924.
Rosenau, M. J., *Preventive Medicine and Hygiene,* 4th ed., New York, 1921.
Schubart, Pauline W., *Rent Restriction Laws in the United States,* New York, 1922.
Townroe, B. S., *The Slum Problem,* London, 1928.
U. S. Public Health Service, Bulletin No. 136, *An Ideal Health Department for a City of 100,000,* Washington, 1923.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XV.
Veiller, Lawrence, *Housing Reform,* 2nd ed., New York, 1914.
—— *Model Housing Law,* New York, 1920.
Waite, H. H., *Disease Prevention,* New York, 1926.
Welch, W. H., *Public Health in Theory and Practice,* New Haven, 1925.
Winslow, C. E. A., *Evolution and Significance of the Modern Public Health Campaign,* New Haven, 1923.
Wood, E. E., *The Housing of the Unskilled Wage Earner,* New York, 1919.

Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chaps. XXXV and XXXVI.

Harrison, A. P., "The Organization of a City Health Department," *Texas Municipalities,* July, 1920.

Purdy, Lawson, "Subsidized Housing in New York," *National Municipal Review,* November, 1927.

The reports of the New York State Housing Commission contain a great deal of valuable information.

CHAPTER XXVIII

SANITATION AND WATER SUPPLY

Sanitation

Municipal sanitation is the term applied to the collection and disposal of city wastes. These wastes take a number of different forms—street sweepings, ashes, rubbish, garbage, dead animals, sewage. Some are the product of trade and industrial processes; some are the result of household activities; some, such as snow, are merely natural obstacles to the smooth functioning of urban civilization. All must be disposed of as quickly and cheaply as possible, in such a way as to afford the public a minimum of inconvenience and a maximum of protection against disease.

The problem is complicated by seasonal variations. The average city has nearly twice as much garbage in summer as in winter, largely because of the increased consumption of green vegetables. The quantity of rubbish is also much greater during the summer months. Ashes, on the other hand, accumulate more rapidly in winter. It is impossible to predict snowfalls considerably in advance; also, the quantity of snow varies greatly from year to year. Yet there must be a municipal organization always on the job, collecting wastes as they accumulate and getting rid of them without delay.

Street Wastes

Street sweepings present a far less serious problem than some other forms of municipal waste. Moreover, the task of keeping the streets clean is becoming increasingly easy with the greater use of smooth pavements and the widespread replacement of horses by motor vehicles. In many municipalities the residents have been taught the im-

portance of using conveniently located street corner receptacles for papers, fruit skins and other miscellaneous substances, instead of littering the streets. Yet a great deal of street waste must be collected during the course of a year; in some cities it runs as high as three hundred pounds per person. Some small portion of it is the excreta of horses and smaller animals; some consists of the sweepings from buildings and sidewalks, in addition to leaves; some is the waste from building operations and street repairs. In addition, there is a mass of material which virtually defies classification—paper, pieces of wood, fruit skins, earth, sand, stones and the like, discarded by pedestrians or dropped from vehicles. Dirt and dust are commonly removed by flushing, either by hand or by machines. In most instances the larger and heavier materials are swept into piles at the curb, and then removed by hand. The sweeping operation is frequently done by machines, especially in the larger cities. Some of the newer brooming machines not only sweep the road surface, but sprinkle it first, and afterward, like glorified vacuum cleaners, pick up the waste.

There are various methods of disposing of street refuse. If the organic content is high—seventy-five per cent or more—it may be sold as fertilizer. As a matter of fact, however, the organic content is nearly always much lower, so other means of disposal must usually be found. Some cities use their street sweepings to fill low land, though this plan has proved unsanitary in a number of cities. Better results are obtained if the street refuse is first combined with ashes. This mixture may be fairly satisfactory for filling purposes, especially if covered with a thin layer of earth, and dumped on land which is to remain idle for a few years. In many municipalities the street refuse is incinerated.

Strictly speaking, snow is also a street waste, but it is sufficiently different from other street wastes to merit separate consideration. It involves no question of sanitation, and the chief problem is to get it out of the way as quickly as possible, with the least inconvenience to traffic.

The work should be done by the regular street cleaning force, with such additional temporary recruits as may be necessary. Road scrapers usually pile the snow at the curb, and then it is commonly loaded into trucks, either by hand or machine. It may be emptied into some nearby body of water, or dumped on low ground where the drainage is adequate. A still better plan, when conditions permit, is to empty the snow into the sewers.

The Household Wastes

Then there are the household wastes—ashes, rubbish and garbage. The term *rubbish* applies to a varied assortment of discarded substances. It includes wood, paper, rags, bedding, straw, leather, rubber, old furniture, stoneware, glass, boxes—in fact, a miscellany that defies satisfactory classification. Garbage is animal and vegetable waste matter, chiefly from the preparation of food. Some of the smallest municipalities collect only garbage, leaving householders to arrange with private collectors as best they can for the removal of ashes and rubbish. In the large majority of cities, however, all three classes of wastes are collected at municipal expense—either by the city's own force or under contract. It is generally agreed that the city should do this work itself. The common practice in the United States is to combine the collection of ashes and rubbish, the garbage being taken away separately. Some cities, however, collect garbage and rubbish together, some combine garbage, rubbish and ashes in a single collection, while still others provide for the separate collection of all three. Which plan a city should adopt depends chiefly upon its methods of disposal. If garbage, ashes and rubbish are all to be used for filling low areas, there is no reason why they should be kept separate. If, on the other hand, the garbage is to be fed to animals, the rubbish sorted and later burned, and the ashes dumped on vacant land, it is extremely important that householders place each kind of waste in separate containers. To get them to do so, however, usually requires an extensive educational campaign, together with the strict enforcement of necessary

municipal regulations. It is so much easier to put every particle of household waste into a single container than to sort it that the average person is apt to regard separate collections as a needless bother.

In providing for the collection of household wastes a city generally finds that it must make and enforce a number of rules—not only concerning their separation, but also dealing with the kinds of receptacles to be used and the places where these are to be put for the convenience of the collectors. Ash containers should be of metal instead of wood. They should not be too heavy for lifting, for otherwise their contents must be emptied on the sidewalks and shoveled into the collecting wagons—an operation that causes unnecessary delay as well as dust. Every garbage receptacle should be watertight and covered. Whether it should be kept at the back of the house or placed at the curb depends on the method of collection.

Ashes present no especially difficult problem. Unless mixed with garbage, or other wastes of a similar nature, they need not be collected at very frequent intervals. Northern cities find weekly or even bi-weekly collections adequate in the winter, with monthly collections during the summer season. In the South, of course, still fewer collections normally suffice. There are various methods of collection. Under the gang plan, which is becoming increasingly popular, one gang of men goes a short distance ahead of the wagon or truck, placing the receptacles at the curb so that the driver may empty them. Another gang follows the wagon and returns the empty receptacles to the houses from which they have come. Ashes make an excellent fill for low ground, and are commonly disposed of in this way, especially if collected separately. Industrial ashes are gotten rid of privately, as a rule, and therefore offer no problem to the city.

When rubbish and ashes are collected together, collection and disposal methods are much the same as for ashes separately. Sometimes, however, rubbish and garbage are collected together. In many cities this mixture is incinerated, the combustible portion of the rubbish furnishing

sufficient heat to evaporate the moisture in the garbage. For nearly thirty years experiments have been made as to the advisability of sorting rubbish before finally disposing of it, but only a few cities have sorting plants. The saving is small, and some persons contend that the system has injurious effects upon the health of those who are daily engaged in the task of handling dirty and possibly infected materials of every description. This claim has never been definitely proved, but the mere possibility of its correctness makes desirable the disinfection of all rubbish before sorting.

Garbage must be collected much more frequently than ashes or rubbish. Two or three collections a week are necessary in hot weather, and even daily collections are desirable if the garbage is to be fed to animals. As a rule the collectors go to each house in turn and carry its garbage receptacle to the street, dumping the contents into the garbage wagon or truck and returning the empty receptacle to the house. Sometimes this procedure is varied by furnishing collectors with larger pails, so that several houses may be served in succession without returning to the street. A few cities have adopted the so-called can system of collection. Under this plan each full can is taken and placed unopened in the garbage wagon, a clean, empty can being left in its stead. All the full cans are then opened, emptied and cleaned at some central point. Such an arrangement is less offensive to householders than the usual collection method, but it is also much more expensive, for when garbage wagons are fitted with the necessary racks their carrying capacity is materially decreased. Moreover, the city is put to the added cost of purchasing the cans unless it charges the residents directly, which is scarcely ever the case.

There are a number of ways of disposing of garbage. The simplest plan is to dump it into some nearby body of water—a river, a lake or the ocean. This is done on the theory that the soluble material will be diluted, the heavier particles will settle to the bottom, and the remainder will be so scattered that it will pass unnoticed. As a matter of

fact, the cleanest material has a tendency to sink, while the foulest usually floats on the surface. The result of dumping, even in large bodies of water, has generally been the creation of nuisances. The federal government, therefore, has found it necessary to prohibit the emptying of garbage into interstate streams, and most progressive seaboard cities have abandoned the practice of dumping it into the ocean.

Garbage alone cannot be used as a fill for low areas. It can be utilized for filling purposes, however, if combined with ashes, rubbish or street sweepings. As a rule, the garbage is first treated chemically to delay putrefaction, and then applied to the land in thin layers, with considerably thicker layers of ashes or the like between. In an emergency this plan may give fairly satisfactory results, but it requires so large an area of suitable vacant land and is so likely to create a positive nuisance that sanitation authorities frown upon it.

Small communities frequently dispose of their garbage by burying it. The most common procedure under this plan is to dig long trenches into which the garbage is emptied and then covered with earth from parallel trenches. In some cities, however, no trenches are used. Instead, the garbage is deposited on the surface of the ground in thin layers, and plowed under. The trench method is preferable, because it decreases the likelihood that great numbers of birds and animals will be drawn to the spot. It is important that the garbage be covered over as soon as possible. Large cities cannot satisfactorily get rid of their garbage by burial. Too much land is required, and the length of the haul is too great.

The three methods of garbage disposal already mentioned are but makeshifts. They may do well enough for small municipalities, and they may even prove acceptable emergency measures for large cities. But eventually, as cities grow and primitive measures are abandoned, new systems must be found. There are three satisfactory ways of getting rid of garbage—ways which meet all sanitary requirements. One is feeding to hogs. An average hog can consume twenty pounds or more of garbage daily, and

thrive on the diet. He may put on weight somewhat more slowly than his grain-fed brother, and show shrinkage more quickly in long shipments, but his meat is equally as good. Some persons object to garbage-fed hogs on the ground that they are likely to spread disease. This prejudice is without foundation, however. While it is true that such hogs are constantly exposed to cholera, the danger from this disease can be entirely eliminated by proper immunization. The inoculation of the animals against cholera is indispensable.

From a sanitary standpoint, by far the best way to dispose of garbage is to burn it. This is an expensive process, however, especially if the garbage is treated separately, because of the large amount of water which must be evaporated. When rubbish and garbage are burned together, the rubbish usually contains a considerable quantity of combustible matter, and the fuel bill is thus materially reduced. Incinerator plants have been installed in a great many American cities, particularly those with populations of two hundred thousand or less.

Nearly all the great metropolitan centers have adopted the process known as garbage reduction. This process takes two different forms, known respectively as the "drying" and "cooking" methods, but under either form the garbage is treated under high steam pressure. The result is to force out the grease, which may be sold for commercial purposes, especially for the manufacture of soap, though its value is variable. The remaining dry portion of the garbage is called tankage. It may also be disposed of at a profit, since it makes a good fertilizer base. Garbage reduction plants are very expensive to install and maintain, and even under most satisfactory conditions they emit such foul odors that they must be kept at some distance from thickly settled sections. It is generally agreed that cities with populations much below the one hundred thousand mark do not have a sufficient quantity of garbage to warrant the adoption of this method.

Dead animals present no especially serious problem. The smaller animals are usually collected by the garbage men,

and disposed of by burial or incineration. If the animals are diseased, incineration is the only safe method. The larger animals may be collected by the city, but sometimes they are collected by private companies, which pay for the privilege. In either case, the bodies are taken to rendering plants and, after removal of the hides, are treated to secure grease and tankage.[1]

Sewage Collection

Sewage is the spent water supply of a community, together with those human and household wastes which are removed by water carriage—supplemented in some instances by street washings and industrial wastes.[2] Few persons realize how vast a quantity of sewage the average city must dispose of every twenty-four hours. The amount varies from city to city, of course, but is seldom less than one hundred gallons a person per day, and in many municipalities rises as high as two hundred gallons. Of all the municipal wastes, none is a greater potential menace to life, health and property than sewage. A few gallons of it may contain enough disease germs to bring pestilence to an entire city. In many instances it has contaminated municipal water supplies, destroyed the value of bathing beaches, damaged river and harbor improvements, injured livestock, and killed fish and other natural stream life. The greatest care must be taken, therefore, to adopt a plan of sewage collection and disposal that will adequately protect the public health, at as low a cost as possible.

The sewerage system—the system of pipes which carries sewage from homes, stores, factories and gutters to the place of treatment or final disposal—may be either separate or combined. Under the separate plan the household sewage is carried in one set of pipes, while larger pipes take care of storm water, and perhaps industrial wastes

[1] For a concise discussion of problems connected with rubbish, garbage, street sweepings and the like, see *Bulletin No. 107* of the U. S. Public Health Service, October, 1920, "Municipal Wastes—Their Character, Collection, Disposal."

[2] This is the definition given by Fuller and McClintock in *Solving Sewage Problems*, p. 1.

also. The combined plan, as its name indicates, makes provision for but a single set of pipes to carry the sewage from every source. Both systems have their merits and defects. A great deal depends on the topography, amount of rainfall and seasonal fluctuations, and—most important of all—the method of disposal.

The smaller sewer pipes are generally made of vitrified clay, while brick is the most common material for large pipe construction. Cast iron is sometimes used, however, and concrete is rapidly becoming more popular in nearly every section of the country. Care must be taken to select materials which can withstand the action of acids, for certain industrial wastes especially have a very high acid content. In this respect concrete is less satisfactory than vitrified clay or brick, especially for small pipes. The main trunk pipes in the sewerage systems of the great cities are very large, some of them being ten feet or more in diameter.

Sewers are connected with the surface of the ground by manholes—brick or concrete shafts of sufficient size to permit a man to descend for the purpose of cleaning or inspecting. These manholes are fitted with iron covers, and are commonly placed about three hundred feet apart, though a number of cities have increased this spacing in recent years. For many years manholes were opposed on the ground that they would permit the escape of "sewer gas," which was popularly supposed to be poisonous. The result was that when a sewer became so badly clogged as to make cleaning imperative, it was necessary to break the sewer walls, remove the obstruction, and then rebuild.

Some years ago it was generally believed that every storm sewerage system must be equipped with catch basins —chambers placed in gutter inlets or just back of them for the purpose of preventing the admission of grit and other coarse material. These catch basins are still widely used, but the need for them is much less than formerly, partly because sewers are now generally laid on self-cleansing grades and partly because streets are better

paved and cleaned. If a city uses catch basins, it should make provision for cleaning them regularly. Otherwise they are likely to become breeding places for mosquitoes during the summer months. In every case the question should be asked whether it is economical to flush street refuse into the catch basins and later remove it. Many cities may find that they can save money by sweeping up the refuse before it reaches the sewer inlets, or by permitting it to pass through the sewers.

Sewage Disposal

There are a great many different ways of disposing of sewage. The easiest and cheapest plan is to discharge it into some convenient body of water. Most cities are situated on the banks of lakes or rivers, or directly on the ocean, and need not look far for a natural sewage receiver. It might be supposed that the emptying of large amounts of sewage daily into a river would make it totally unfit as a source of water supply for cities and towns further down stream. But nature has provided a very simple method of purification. As soon as a quantity of sewage is merged with a considerably larger quantity of water, the oxygen of the water begins to act upon the organic matter in the sewage, eventually converting it into nitrates or other mineral substances. Under favorable circumstances a large body of water can thus be relied on to rid itself in considerable measure of disease-bearing organisms. It is important, however, to stress the fact that conditions must be favorable. A great deal depends on the freshness of the sewage, its freedom from floating matter and solids capable of settling, the temperature and oxygen content of the water, the direction and swiftness of currents and tides, and, above all else, the ratio of sewage to clean water. Care must be taken not to feed into a body of water a greater quantity of sewage than it can digest. Failure to recognize this elementary principle has caused more than one epidemic.

If the sewage is first treated, the quantity which may safely be disposed of by dilution is materially increased.

The simplest method of treatment is by means of grit chambers, racks and screens. Raw sewage, coming directly from the streets, industrial plants, stores and homes, usually contains a great quantity of suspended matter—sand, dirt, lumps of coal, cloth, paper, bottles, fruit skins, cotton waste, hair, pieces of wood ranging in size from splinters to railroad ties, and hundreds of other substances which virtually defy enumeration. All this matter should be removed before the sewage is emptied into lake, river or ocean, or before it goes to the municipal plant for any further treatment that may be considered necessary. A grit chamber consists of two or more basins, one normally being kept in use while the other is cleaned, though both may be pressed into service in time of emergency. Sewage is permitted to flow over the grit chamber at a speed just sufficient to cause the sand, gravel and cinders to settle to the bottom. Near the grit chamber, sometimes directly above it, racks are placed to catch the coarse floating material. Most of the finer floating material is then removed by screens, which may be coarse or fine according to the purpose they are intended to serve.[3]

When still further treatment of sewage is considered necessary, one of the most common methods is sedimentation. Plain sedimentation tanks are merely great basins, in which the sewage remains stationary for a period, or else flows in and out at a very low velocity. The suspended material not removed by grit chambers, racks or screens is thus allowed to settle to the bottom. After it has done so, the remaining liquid portion of the sewage, known as the *effluent,* is run off and either discharged directly into a nearby waterway or else subjected to further treatment. Of course, the tanks must be cleaned at frequent intervals. The sedimentation process can be hastened considerably by adding a suitable chemical, milk of lime being gener-

[3] The parallel bars of a coarse screen are seldom less than one-half inch apart. A fine screen is commonly made of perforated metal or wire cloth, the perforations rarely exceeding one-fourth of an inch. Metcalf and Eddy, *Sewerage and Sewage Disposal,* have an excellent chapter (XI) dealing with grit chambers, racks and screens.

ally favored. Aluminum sulfate and ferric sulfate are used instead by some cities.

A serious problem of sedimentation is the disposal of the solid matter—*sludge,* it is called. First it must be dried, usually by placing it on sand beds and permitting the moisture to seep away, but sometimes by compression, acid precipitation, or the action of hot air. Then it can be buried, used as a land fill, or perhaps sold as fertilizer. But even the best methods of sludge disposal are expensive and tedious. Any device, therefore, which makes possible sedimentation with a smaller percentage of sludge is entitled to serious consideration. One such device is the septic tank. Its construction does not differ materially from the construction of an ordinary sedimentation tank, but the sewage is retained in it for longer periods. Frequently it is covered, though this is not essential to the success of the process. Eventually some of the suspended organic matter is changed into liquid and gaseous substances, which accounts for the reduction in the quantity of sludge. The septic tank process, however, produces foul odors, and also causes undesirable changes in the composition of the effluent. When first introduced it proved quite popular, but its use is now confined for the most part to very small municipalities.

Within the last few years a number of modified septic tanks have been developed. Of these the most important is the Imhoff [4] tank, now used by hundreds of American cities. It differs from the ordinary septic tank in that it has two stories. Sewage is poured into the upper compartment, or sedimentation chamber. The suspended solids then settle to the bottom, and drop through slots into the compartment below—the digestion chamber, as it is called. Here they remain for weeks or even months. In the meantime the gases are permitted to rise through especially designed vents. When the sludge is finally removed, it is in much better condition for disposal than the sludge from ordinary septic tanks.

[4] Named after its designer, Dr. Karl Imhoff, a German municipal engineer.

In recent years a number of American cities, including Chicago, Milwaukee and Indianapolis, have adopted a new tank method of sewage treatment known as the activated sludge process. Under this plan the sewage is first screened, and then permitted to flow into an aeration tank, where it is mixed with *activated* sludge—that is, sludge which has been agitated with air until it has assumed a frothy appearance. Air is then pumped through the mixture, which is run off into an ordinary sedimentation tank after three or four hours. The sludge which settles to the bottom of the sedimentation tank at the completion of the process may have considerable commercial value as fertilizer, though some of it, of course, must be returned to the aeration tank to carry on the activating process with fresh sewage. The effluent obtained is remarkably clear and free from disagreeable odors.

Many American cities filter their sewage in order to make it fit for final disposal. There are a number of filtering processes. One is the contact bed method. A contact bed is a water-tight basin filled with coarse material, such as broken stone or cinders. The sewage is poured in at the top and retained for a short period, after which it is permitted to filter out below. In a considerable number of municipalities this process is repeated, the second bed being filled with finer material and therefore operating at a slower rate. Some of the organic matter from the sewage is left behind in the contact beds, but this is an advantage instead of a defect, for the bacteria which live upon the organic matter soon multiply, and nitrify fresh sewage as it is poured upon the beds. Cleaning of the beds at four- or five-year intervals is adequate. Another type of filter is known as the trickling filter. The sewage is discharged on the beds by means of sprinklers, and is allowed to trickle through at once instead of being retained for a time. This system is much quicker than the contact bed method.

Then there is the intermittent sand filter. This is simply a specially prepared bed of sand or other fine material, provided with under-drains. The sewage is poured on the surface of the ground, and gradually seeps through. The

result is an effluent from which an astonishingly high percentage of the bacteria has been removed. But a very large area of land is required, and in many sections of the country good filter sand cannot readily be obtained.

In some European cities, of which Berlin is the most notable example, sewage is discharged upon nearby land which needs irrigation, and crops are raised. Sewage farming has never become popular in the United States, however.

A large number of cities disinfect the sewage effluent before discharging it into nearby bodies of water. This is done in order to protect public water supplies and bathing beaches, and also to prevent the contamination of shell fish. The disinfecting agent is almost invariably chlorine or one of its compounds. Commercial liquid chlorine, sold in heavy steel containers, is coming into rather general use. The results obtained vary with local conditions.

If one of the many methods of sewage treatment could be singled out from all the rest, and labeled as most satisfactory regardless of varying circumstances, a very perplexing problem of municipal administration would be solved for all cities. Unfortunately, however, there is no one best plan. Every city must decide what it will do with its sewage after considering a score of different factors, such as topography, climate, proximity to a large body of water, quantity of trade wastes, cost of power, construction and labor costs.[5]

Water Supply

A large American city normally uses at least one hundred gallons of water per person a day. Sometimes the figure runs close to three hundred gallons. This vast quantity, amounting in the case of New York City to more than eight hundred and sixty million gallons daily, must be brought from the sources of supply,[6] perhaps many

[5] One of the best discussions of the problem of sewage treatment, at least from the standpoint of the layman, is Harold E. Babbitt's *Sewerage and Sewage Treatment.*

[6] Los Angeles brings its water supply two hundred and fifty miles over mountain and desert.

miles beyond the city boundaries, to the places where it will ultimately be consumed—the factories, stores, public buildings, homes. The water must be clean and pure when it reaches its final destination, or municipal officials will soon be called to account. There must be no prolonged or frequent interruptions of the service, for modern urban civilization is utterly dependent on its water supply. The large majority of cities, including virtually all the great metropolitan centers, have assumed direct responsibility for meeting the water requirements of their residents, though in some of the smaller municipalities private companies still operate. It is generally felt that water supply is too important a matter to be left in private hands.

Many persons may be surprised to learn that the per capita consumption of water in American cities is so large. They may wonder, naturally enough, what the average man does with his daily hundred gallons or more. The truth of the matter is that a comparatively small portion of the water used by a large city ever passes through household faucets—usually not more than thirty-five per cent. Large quantities are used by industrial and commercial concerns, especially laundries, dye and rubber works, railroads. Hotels are also great water users. Then there are the public uses, less important, but still to be reckoned with. Water must be had for flushing streets and sewers, for putting out fires, for operating occasional fountains in the city parks, for supplying the needs of public buildings. Public uses may account for as much as ten per cent of the total.

Students of water supply problems are agreed that in every city an excessive amount of water is wasted. Mains may be leaky, plumbing may be defective. Water users may be careless or indifferent, especially if they are charged a flat rate instead of a rate based on the quantity of water consumed. In some cities, according to reliable estimates, water wastage equals actual use, and it is seldom less than twenty-five per cent of the total. There is no doubt that the careless habits of the people are partly to blame, and therefore it seems obvious that every city's water supply

should be metered, charges for water being proportioned to actual consumption. Some years ago it was the almost universal practice to charge every householder exactly the same amount for water, or else to vary the charge with the size of the home or the number of faucets. Many cities still do so. But an ever-increasing number, including most of the large metropolitan centers, have shifted to the meter system. Meters are installed, sometimes at the expense of the city and sometimes at the expense of the property owners, but nearly always by the city's workmen. The charge for water can then be proportioned exactly to the quantity of water used. No surer way of checking unnecessary waste has yet been found. Some persons object to metering on the ground that it not only puts a stop to wastage, but also to the proper use of water among the poorer classes. Whether this argument has any real value is not easily determined.

Water Supply Sources

Cities draw their water supplies from a number of different sources. Perhaps most common of all, if we consider the number of cities instead of the number of people served, is ground water supply—from wells, springs and the like. Wells and springs, however, serve chiefly the smallest municipalities. Memphis, which depends entirely on ground water, and Brooklyn, which takes a considerable portion of its supply from wells driven in Long Island's coarse sand and gravel, are notable exceptions. Much more important as a source of water supply, from the standpoint of the number of people served, are rivers and small streams. A great many of the largest American cities, including Philadelphia, St. Louis, Pittsburgh, New Orleans and Washington, and also a vast number of smaller communities, take their water directly from the rivers on which they border. Even small streams can be made to supply the water needs of great metropolitan centers, but in that case they must be impounded—that is, all the streams of a watershed must be brought together, and the supply stored until needed. An impounding reser-

voir, built so as to catch and retain the water from many small streams and thus form an artificial lake, serves to hold the surplus water of the winter and spring flows and make it available for the summer and fall months. In some degree, also, it may retain the excess of a wet year for use in drier years which are sure to follow. New York, Boston, Baltimore, Newark and San Francisco are numbered among the many cities which secure their water supplies from the impounded flow of small streams. Then there are lakes, great and small. Sometimes a city is so fortunate as to find a nearby lake which is really an impounding reservoir built by nature. Thirty miles from Rochester, for example, is Hemlock Lake, retaining the water flow from the surrounding watershed, and so elevated above the city that the water flows by gravity under sufficient pressure. Very few cities, however, have their water problems solved so easily. The Great Lakes supply most of the cities situated on their shores or nearby, including Chicago, Cleveland, Detroit, Buffalo. But Great Lakes water is more closely akin to river water in many respects than to the water of small lakes such as that which supplies Rochester. It must be pumped, and treatment is generally necessary to make it suitable for drinking purposes.

Everyone knows that there is a close relationship between the water supply and public health. Water is a chief carrier of certain germ diseases, especially typhoid fever. Widespread recognition of this fact within the last three decades has led to the almost universal protection of water supply sources and treatment of water supplies, with the result that the typhoid death rate has dropped amazingly. Take Cleveland as an example. In 1904 there were forty-eight typhoid fever deaths for every one hundred thousand of the city's population; at the present time there is about one death for every hundred thousand people. Philadelphia has reduced its typhoid death rate more than ninety per cent since 1900. So have Pittsburgh, Buffalo, Baltimore, Washington and a great number of other municipalities, large and small. There is no valid

reason why typhoid fever cannot be entirely eliminated from the list of serious menaces to human health.

A city's water supply should be free from pathogenic or disease-producing bacteria, of course, but it should possess a number of other qualities in addition, if it is to meet all requirements. For one thing, it should be free from dirt. Water taken directly from rivers is likely to hold considerable quantities of clay and sand in suspension, giving it a turbid or muddy appearance. The Delaware River is relatively free from turbidity, yet every year fifteen tons of mud are cleaned out of the filter which prepares Delaware water for Philadelphia's use. Most cities which depend on river water must get rid of relatively much greater quantities of mud before the water can be accepted for drinking purposes, or for some industrial uses. If water has become discolored by contact with dead leaves or peat, or in some other way, this coloration must be eliminated. Water should have a minimum of unpleasant tastes and odors, yet sometimes these tastes and odors are very difficult to remove. They may be caused by minerals such as sulfur or iron, or by the organisms which grow and die and decay in reservoirs. It must not be forgotten that hard water is generally undesirable. It necessitates the use of excessive quantities of soap, injures fabrics, reduces the efficiency of boilers, and is unsuited to numerous manufacturing processes. If a city's water supply is naturally hard, it should always be softened artifically. Iron in the water should be eliminated, for it contributes to the stoppage of pipes, in addition to discoloring fabrics and producing a disagreeable taste. Then there is the question of temperature. Water which is to be used for drinking purposes is unpalatable when lukewarm, and must be delivered to householders reasonably cool.

It is obvious that these desirable characteristics of a municipal water supply are not equally important to all classes of water users. The laundry proprietor desires water that is clear and soft, but he is little interested in unpleasant tastes or relatively high temperatures. The

owner of hydraulic power devices wants water as cheaply as he can get it, without much regard for its qualities. The fireman must have water promptly and in sufficient quantities, though it is a matter of no consequence to him whether the supply is hard or soft, turbid or clear, pure or impure. Only the householder demands water that is acceptable from every standpoint. In practice, however, any attempt to separate a city's water supply according to its different uses would involve trouble and expense out of all proportion to the gain. No city makes the attempt. Instead, water of uniform quality is supplied for all purposes.[7]

Treatment of Water Supplies

There are various methods of protecting municipal water supplies and treating them so as to make them fit for domestic consumption. There is no single process, however, that will meet all the needs of every city—that will make water clear, odorless, tasteless, soft and pure. But this is not necessary. It is extremely improbable that a city's raw water supply will prove defective in every respect. If it is badly colored, it is likely to be relatively free from turbidity. It may be badly polluted, but free from hardness. Each city, therefore, must determine for itself how it will deal with its water supply problems. There is no uniform procedure. Consideration should be given to a number of factors—not only the nature of the supply, but also the present and probable future quantity of water required, the types of factories, and the funds available.

One of the simplest ways to rid a water supply of disease germs is to store it for a considerable period—sixty days at the least. When a city draws its supply from a small lake or from the impounded flow of many streams, the water is regularly kept in storage a long while before it is released for final consumption. During the storage period, of course, it is exposed to the action of air and sunlight. Pathogenic bacteria do not grow under such

[7] When a high pressure fire fighting system is used, however, the water for the system may be taken directly from a nearby river, without any attempt at filtration.

conditions. The storage of New York City's water supply in impounding reservoirs built in the Catskill Mountains makes filtration unnecessary. It must be remembered, however, that water drawn from storage reservoirs is pure only to the extent that the shores of the reservoirs and the surrounding watersheds of catchment areas are kept free of possible sources of pollution. A camping party at the edge of the storage basin may be the cause of a typhoid epidemic. Cities usually deem it advisable, therefore, to purchase the land along the shores of the reservoirs, and sometimes also the land along the more important streams. Laws are enacted which are designed to prevent manufacturing and human wastes from mingling with the water supply, and these laws are commonly enforced by sanitary inspectors. Many growing cities are now troubled by the development of residential suburbs and satellite manufacturing towns upon their catchment areas, and it is sometimes suggested that such areas be purchased from their private owners and restored to their primeval state. A cheaper and better plan, when this stage is reached, is to purify the water artificially—perhaps by filtration—after it has left the storage reservoir.

If the water supply contains a considerable quantity of sand and clay, as is often the case when it is taken from rivers, a great deal of this suspended matter can be removed by a process of sedimentation not unlike the plain sedimentation method of treating sewage. The sedimentation or settling basins are from eight to twenty feet deep. In them the water is permitted to stand for periods ranging from several hours to several days, according to the amount and character of the sand and clay, the degree of clarification required, and the nature of the treatment that is to follow.

Water from some of the northern rivers of the United States can be virtually freed of turbidity by means of sedimentation. Southern rivers, however, usually contain much larger quantities of suspended matter, and in much finer particles. There is only one way in which they can be made clear. That is to treat them with a chemical—

usually alum or iron sulfate. The resultant chemical reaction produces a coagulant or clotted mass which is heavier than water and therefore sinks to the bottom of the settling basin, drawing with it the sediment and most of the bacteria. This process is known as coagulation. It is used not only to remove excessive turbidity, but also to eliminate the color imparted to water supplies by dead leaves, peat and the like.

Aeration—the bringing of water into contact with air—is the simplest, cheapest and most generally applicable method of removing tastes and odors. There are a number of ways in which this mingling can be accomplished. One is by pumping air into the water, but this plan is expensive and not very efficient. Better results can usually be obtained by letting the water drop—either by playing it through fountains or by passing it over dams. The few seconds of contact with the air thus gained are usually sufficient to eliminate unpleasant tastes and smells. Aeration, if followed by filtration, can usually be relied on to get rid of the iron so often found in ground water.

For the purpose of removing disease-producing germs, no process has yet been devised which equals filtration. There are two kinds of filters in common use today—the slow sand and the rapid sand or mechanical. The slow sand filter is merely an adaptation of nature's methods to man's needs. It is a basin, usually of concrete, filled with broken stones, gravel and sand in layers. The finest layer is on top, with successively coarser layers beneath. At the bottom of the filter are underdrains. The water enters the filter from above and gradually seeps through, losing most of its impurities in the meantime, just as spring water which has percolated through the ground flows out clean and pure unless it has somehow come into contact with sources of contamination. Slow sand filtration is a very effective method of treatment if the water is free from excessive sewage pollution and not badly muddied or colored. When these conditions cannot be met, however, such filtration usually proves unsatisfactory unless combined with other processes.

The mechanical filter differs from the slow sand variety in a number of respects. For one thing, the sand used as a filtering medium is coarser and more uniform. Then, too, a chemical coagulant is used to hasten the process. In addition, the cleaning of the filter is accomplished by forcing water upward under pressure, so that the normal flow is reversed. Obviously this method of cleaning is much quicker and easier than the scraping, scrubbing and raking of sand which must be done at regular intervals with slow sand filters. American cities show a marked preference for mechanical filters. This is not at all surprising, for it has been found that the mechanical kind are more satisfactory in the treatment of turbid and colored waters. Moreover, they are from twenty to sixty times as fast as filters of the slow sand type, and therefore require much smaller ground space. A few cities, of which Philadelphia is an outstanding example, use water from such polluted sources that they find it advisable to resort to double filtration, the water first being put through filters of the mechanical variety and then through slow sand filters.[8]

It is generally agreed by water supply experts that the reservoirs used for storing filtered water or water from ground sources should be covered. When covers are provided it is much easier to keep the water clean and pure. Dust and seeds are not blown into the reservoirs. Human tampering can be more readily prevented. Ice forms less readily in the winter, and in the summer months there is no sunlight to foster the growth of algæ. Despite these obvious advantages, a number of cities still keep their water in open basins, where it is constantly exposed to contamination, after they have gone to the trouble and expense of fitering it.

Nearly all cities dose their water supplies with chlorine, either in lieu of other treatment or else in addition to it. The chief purpose is to destroy bacteria, but in many instances the application of chlorine prior to filtration also

[8] An excellent discussion of filtration methods is contained in *Water Works Practice*, a manual issued by the American Water Works Association, 1925. Note especially Chap. VIII.

serves to reduce the likelihood of clogged filters. When chlorine is used, unpleasant tastes and odors sometimes result. It is not surprising, therefore, that some sanitarians regard chlorination as a last resort, to be used only in emergency or when the water supply cannot be made sufficiently pure in any other way.

When water is hard—that is, when it holds in solution certain mineral compounds—it must be softened to make it suitable for numerous industrial operations and for many forms of household use. The softening process usually takes the form of adding lime or soda ash, or both, according to the nature of the mineral compounds it is necessary to eliminate. There are still other methods of softening water, but they cannot readily be adapted to large water supplies.

It has long been known that goiter is due to a deficiency of iodine in the diet, and can be prevented by adding this element in sufficient quantities. There are certain iodine-poor sections of the United States known as the goiter belt because of the prevalence of this disease. Not without reason, therefore, these sections are interested in finding ways of atoning for nature's parsimony. The use of iodized salt is encouraged, and in some communities chocolate confections of iodine are distributed among the school children. In 1923 the City of Rochester set a precedent by adding small quantities of sodium iodide to its water supply for a period of several weeks. Three or four municipalities have since followed its example. This method of combating goiter is approved by many sanitarians, but some experts regard it as wasteful and an unnecessary "medication" of the water supply.

A few words should be added concerning water supply organization. In a large number of cities there is still a water board of from three to seven members, sometimes elected but more commonly appointed by the chief executive. This board chooses a director or superintendent, who has charge of the day-to-day operating routine. In recent years the tendency of American cities to favor single-headed control has resulted in the abolition of many water

boards, the superintendent then being chosen directly by the mayor or manager. Sometimes there is a separate water department; sometimes the water bureau is merely a part of the department of public works, which also handles sanitation, highways, and perhaps a number of other more or less closely related municipal activities.

SELECTED REFERENCES

American Water Works Association, *Water Works Practice,* Baltimore, 1925.

Babbitt, H. E., *Sewerage and Sewage Treatment,* New York, 1925.

Boyce, Ernest, *Intermittent Sand Filters,* Ames, Iowa, 1927.

Capes, W. P. and Carpenter, J. D., *Municipal Housecleaning,* New York, 1918.

Chicago Department of Public Works, *Water Supply Systems of Chicago,* Chicago, 1924.

Detroit Bureau of Governmental Research, *Report on the Reorganization of the Garbage and Street-Cleaning Division of Detroit,* Detroit, 1924.

D'Olier, W. L., *The Sanitation of Cities,* New York, 1921.

Ehlers, V. M., Eggert, E. J. and White, E. G., *Applied Municipal Sanitation,* Boston, 1925.

Ehlers, V. M. and Steel, E. W., *Municipal and Rural Sanitation,* New York, 1927.

Ellms, J. W., *Water Purification,* New York, 1917.

Folwell, A. P., *Sewerage,* 8th ed., New York, 1918.

Fuller, G. W. and McClintock, J. R., *Solving Sewage Problems,* New York, 1926.

Hazen, Allen, *Clean Water and How to Get It,* 2nd ed., New York, 1914.

Hering, R. and Greeley, S., *Collection and Disposal of Municipal Refuse,* New York, 1921.

Kinnicutt, L. P., Winslow, C. E. A. and Pratt, R. W., *Sewage Disposal,* New York, 1919.

Metcalf, Leonard and Eddy, Harrison, *American Sewerage Practice,* 3 Vols., New York, 1916.

—— *Sewerage and Sewage Disposal,* New York, 1922.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chaps. XXIX and XXX.

Newell, F. H., *Water Resources,* New Haven, 1920.

Philadelphia Bureau of Municipal Research, *Municipal Street Cleaning in Philadelphia,* Philadelphia, 1924.

—— *Water Supply Problem of Philadelphia,* Philadelphia, 1924.

Race, Joseph, *Chlorination of Water,* New York, 1918.

Rochester Bureau of Municipal Research, *Report on the Problem of Refuse Collection,* Rochester, 1919.

Rochester Bureau of Municipal Research, *Report on the Problem of Snow Removal in the City of Rochester,* Rochester, 1917.
——*Report on the Problem of Street Cleaning,* Rochester, 1918.
Springfield Bureau of Municipal Research, *Garbage Disposal,* Springfield, Mass., 1918.
Stein, M. F., *Water Purification Plants and Their Operation,* 2nd ed., New York, 1919.
Turneaure, F. E. and Russell, H. L., *Public Water Supplies,* 3rd ed., New York, 1924.
U. S. Public Health Service, Bulletin No. 107, *Municipal Wastes —Their Character, Collection, Disposal,* Washington, 1920.
——Bulletin No. 132, *Sewage Treatment in the United States,* Washington, 1923.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chaps. XXVI, XXVII and XXVIII.
Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chaps. XXIX and XXX.

Albert, F. W., "Management of a Municipally Owned Water Works," *American City,* May, 1928.
Brush, William W., "Has the Catskill Water Supply System of the City of New York Fulfilled Expectations?" *National Municipal Review,* March, 1927.
Eddy, H. P., "Status of the Garbage Problem at Buffalo," *American City,* Vol. XXX, 1924.
Hale, F. E., "Development of the Sanitary Safeguards of the New York City Water Supply," *Municipal Engineers Journal,* Vol. VII, 1921.
Holmquist, C. A., "Essential Features of an Efficient Municipal Sewerage System," *American City,* November, 1927.
Johnson, G. A., "Report upon the Collection and Disposal of Refuse in the City of Boston," *Boston City Record,* Vol. XV, 1923.
Smith, J. W., "Beccari Process of Garbage Disposal," *American Journal of Public Health,* Vol. XIV, 1924.

CHAPTER XXIX

UTILITY REGULATION

THE term *public utility* is one of those vague phrases which nearly everyone uses, and virtually no one takes the trouble to define. For that matter, it is no easy task to frame an iron-clad definition of the term. Writers on public utility problems usually make the attempt, but without much success.[1] Literally, a public utility is something used by the public, but it cannot be argued that everything used by the public is a utility. State laws and municipal ordinances passed for the purpose of regulating utilities commonly evade the issue by enumerating certain enterprises which are to be subject to such regulation. They list transportation services, such as car, bus, cab and aeroplane lines, railroads, gas, oil and express lines. They commonly include also wharves, docks and bridges, and frequently stockyards and grain elevators, as well as telegraph, telephone and power transmission lines, and water, gas and electric service. Some writers even insist that parks, sewers and highways are public utilities.

Now, what have all these enterprises in common? Obviously, every one renders an essential public service. Virtually every one makes use of public property to a greater or less extent. Competition is normally restricted; in fact, monopoly conditions frequently exist. A charge is usually made for the service rendered, though this is not invariably the case. In order to make the definition as broad as possible, we might say that a public utility is an enterprise which performs an essential service of a quasi-public nature, usually receiving the right to make use of public property for that purpose.

As commonly used, the phrase *public utility* often refers

[1] See, for example, Wm. G. Raymond, *The Public and Its Utilities*, p. 3; John Bauer, *Effective Regulation of Public Utilities*, p. 1.

only to privately controlled undertakings, but it should not be limited in this manner. A public utility may be privately owned and operated, or owned and operated instead by the public. Or the public may be the owner, and arrange for private operation. Sometimes, though rarely, the situation is reversed; ownership is vested in private hands, while the public assumes direct responsibility for management.

When a utility is owned and operated privately, as is commonly the case, the question of regulation becomes important. Utility operators are primarily interested in profits, while the public is chiefly concerned with cheap, efficient service, and these necessarily conflicting interests are certain to produce divergent views. The men who own and manage utilities must be ever on guard lest ill-informed public opinion result in unfair legislation. The men who represent the interests of the people, in council and elsewhere, must also exercise constant vigilance to prevent the granting of franchises which unduly enrich a few persons at the public's expense. There are many billions of dollars of private capital invested in the utilities of the United States. Some writers place the figure as high as thirty-five billions.[2] With so much at stake, adequate regulation is essential.

This chapter is devoted to privately owned and operated utilities. The problems of public ownership are so important, and so different from the problems of regulation, that they are entitled to separate consideration. They are discussed in the next chapter.

The courts and legal theorists often justify government regulation of public utilities on the ground that such businesses are naturally and properly monopolies. They can readily produce many illustrations to prove their point —telephone and gas companies, for example. It might be physically possible to place the poles of competing telephone lines side by side, or to put the pipes and mains of rival gas companies in parallel rows under the same city

[2] See Morris L. Cooke, *Public Utility Regulation*, p. 10, and L. R. Nash, *Economics of Public Utilities*, p. 3.

streets, but such an arrangement would cause a vast amount of unnecessary annoyance to the public. Even more serious, perhaps, would be the wasteful duplication of plant and equipment. Therefore monopoly must be permitted. But unrestrained monopoly frequently results in excessively high rates or unreasonably low standards of service. For that reason every monopoly granted to a utility must be coupled with government regulation of rates and service standards. So runs the argument. But it fails to take account of the obvious fact that some public utilities are *not* monopolies—that there is no good reason, moreover, why they should be monopolies. Bus lines may fall in this category. So may aeroplane lines. A few cities, of which New York is a notable example, permit traction companies to engage in limited competition. Yet in not one of these instances does the absence of monopoly conditions obviate the necessity of government regulation.

Why Regulation Is Necessary

Regulation of the rates charged and services furnished by public utilities is essential for two reasons: first, the commodity or service furnished is in every case a virtual necessity; second, the public is not in a position to protect itself adequately against the danger of extortionate prices or inferior service. It may be dealing with a monopoly, or more rarely it may be served by two or three competing enterprises. But under any circumstances its range of choice is restricted within very narrow limits.

In the first period of public utility history, before public regulation had been made effective—or even attempted, in many cases—the new-born utilities commonly charged as much as possible, and gave just as little as possible in return. Results were generally unsatisfactory. It soon became clear, therefore, that government would have to take a hand. The necessity for some form of government action being admitted, two alternatives naturally presented themselves for serious consideration. One was public ownership; the other was government regulation. Public ownership, however, was regarded with suspicion by many per-

sons, and its popularity is still limited. So the other course—regulation by public authorities—became inevitable.

Now, there is scarcely any form of business that is entirely exempt from some form of public regulation. The manufacturer, the jobber, the merchant must all conform to the requirements of laws which specify minimum requirements of light and air in buildings, minimum fire protection measures, perhaps minimum salaries of employees and maximum hours of labor. Food must contain pure ingredients and be kept clean. All goods must be properly labeled, in order to prevent deception. But regulation of utilities goes much further. Public officials determine what standards of service must be maintained, what prices may be charged, what practices may be adopted. In many instances regulation goes so far that it virtually amounts to participation in the management of the utility enterprises. This development has come about without any conscious planning, but in response to a very real need.

Franchises

When utilities first began to operate, it was generally believed that the public interest could be adequately protected by means of franchises. A franchise is simply a license or permit issued to a public utility, which authorizes it to make use of public property for the purpose of serving the public. Every utility must have a franchise; it must apply to the state or city for permission to engage in the business of meeting a public need. What would be more natural, therefore, than to suppose that the rights of the people could be properly safeguarded by writing into the franchise all the necessary terms and conditions? In order to assure adequate service, for example, why not stipulate in the franchise exactly what service should be provided? Why not fix the rates to be charged, so that there could be no possibility of excessive profits? All this sounded reasonable enough. But in practice the early franchises granted to utilities failed utterly to protect the public interest.

There were a number of reasons for this failure. For one thing, franchises were carelessly phrased in many instances. This is not at all surprising when we consider that the representatives of the people—most of them second-rate men receiving second-rate salaries—were matched against shrewd, high-salaried business men and their exceedingly able attorneys. Double-barreled clauses of every sort were inserted by the utility operators, and city councils did not learn until months or years later that they had been outwitted.

It must not be assumed, however, that every franchise which seemed unfair to the public was the product of the ignorance and stupidity of public officials. Many a city council knew full well that it was being forced into a hard bargain, but granted the franchise just the same, with the full approval of the voters. It must be remembered that in those early days cities were competing with one another for utility service—for local transportation facilities, for gas and electric lines. The chief question was how to induce private capital to enter the utility field. Any persons who stood ready to furnish a community with transportation or power service were in a position to dictate their own terms. They could demand much, promising little in return. And that is exactly what most of them did.

There were many other occasions, of course, when excessively liberal franchise provisions were due directly to flagrant dishonesty. The utilities had something to buy—the right to use city property for the purpose of rendering a public service. City councils had the authority to sell this right. Some utility operators reasoned that the cheapest way to get what they wanted was to resort to bribery, and this line of reasoning exactly suited a great many city councilmen. Franchises were granted in perpetuity, or for nine hundred and ninety-nine year terms, granting privileges which have since proved to be worth millions of dollars, and requiring not a single cent in return. In more than one state conditions became so bad that the legislature took away from the cities the right to grant franchises, and proceeded to grant them itself. The chief

result of this change was to transfer the center of utility lobbying—and actual bribing, in many instances—from the municipal council chamber to the state legislative hall. State legislators collected the "easy money" that had formerly gone to city councilmen.

There is still another reason why the early franchises failed to give the public a sufficient measure of protection. They were expected to be largely self-enforcing. If they provided definite standards of service—for example, that a traction company must operate cars at intervals of so many minutes—there was no effective way of enforcing these standards. The trolley company or any other utility might do virtually as it pleased, without fear that it would be called to account. When a city bargains for something, whether services or supplies, it ought to have some means of making certain that it gets what it bargains for. There seems to be just one practical method of enforcing the terms of a utility franchise. That is to create a commission whose sole task is to supervise the work of the utilities. Since it is constantly on the job, it is in a position to note any deviations from specified standards, and to call offending companies to account promptly.

Public Service Commissions

It must not be thought, however, that the only purpose of a public service or public utility commission is to act as public watchdog, giving notice whenever a utility oversteps the limits of its agreement. Far from it. Such a commission, with proper personnel, can give valuable engineering and accounting advice to utility operators. If vested with adequate authority, it can exercise a flexible control over utility franchises, modifying stipulations which seem unduly stringent in view of changing conditions, and fitting requirements to the needs of the moment more closely than they can ever be fitted by a fixed, unalterable agreement.

For a number of years the need for public service commissions has been so pressing that they have been created one after another in rapid succession. Today virtually

every state has its public service commission, with power to supervise all or a part of the utilities operating within the state's borders. In eight or nine states the state commissions have jurisdiction only over state-wide utilities, such as railroads, telegraph and telephone companies, and perhaps interurban trolley lines. Local utilities are then brought under the control of such local commissions as may be in operation. The large majority of states, however, provide for state regulation of all utilities, regardless of their field of operation. The utility which serves a single community and the utility which carries on its business in half a hundred cities and towns both come under the jurisdiction of the state commission.

The most important function of public service commissions is to regulate rates. Practically without exception they are given some measure of control over utility charges. Sometimes this control is merely in the form of authority to prescribe maximum charges; more commonly complete rate schedules are set up. It is possible, of course, for a utility to appeal to the courts from a commission's decision, but in the first instance every request for permission to make a higher charge must normally be passed upon by the state commission.

Most commissions are charged with the duty of supervising utility service, to make certain that proper standards are maintained. Many of the more progressive have published elaborate service regulations, covering every conceivable phase of utility operation. Quantity and quality of service are prescribed. Gas, for example, must be delivered at fairly constant pressure at all hours. It must have certain necessary illuminating or heating qualities. Transportation facilities must be furnished with reference to the volume of traffic. Heating, ventilating and safety devices must be installed on all street cars, subway and elevated trains and buses.[3] Not so clearly defined, but still quite common, is the right of utility commissions to order service extensions. A newly developed suburb, in-

[3] For a detailed discussion of desirable service standards, see Morris L. Cooke, *op. cit.*, pp. 73-136.

cluded within the franchise area, may not have enough residents to make regular service a paying proposition. Under such circumstances a utility that is left to its own devices may wait months or even years before extending its rails, pipes or wires, in order to be quite certain of securing an adequate return on its additional investment from the very beginning. Commission action therefore becomes necessary.

An important purpose of commission regulation is to prevent financial mismanagement. More than half of the commissions have control over the issuance of securities, and nearly all of them are given authority to prescribe uniform accounting systems. In all these matters, however, from rate regulation to accounting control, the public service commissions are handicapped by inadequate or bungling legislation. Many necessary powers are frequently denied them, and many undesirable methods of procedure are forced upon them by law.

It might be thought that franchises would no longer be needed in many states, in view of the development of commission regulation. Indeed, why would it not be feasible to eliminate them altogether, and simply provide that every utility must furnish service of a grade prescribed by the public service commission, at rates which met with commission approval? That question can be answered very readily: many important matters connected with utility-city relations are not within the jurisdiction of any commission. There must be franchise provisions concerning the term for which the grant is to run, the conditions under which a city may purchase the utility should it desire to do so, the extent to which the utility is to be free from local taxation, if at all, and the special obligations which it must assume, such as the paving of the street surface between car tracks.

The modern franchise is quite a formidable affair. One of its most important sections, of course, is that which deals with the life of the contract. Some states, remembering their unfortunate experiences with perpetual agreements, now provide by law that no franchise may be

granted for more than a certain number of years—often twenty-five. If there is no such limitation, of course, a city is free to do as it pleases. The difficulty with every fixed-term franchise, whether long or short, is that it necessitates a controversy between the utility and the city over fresh terms when the time for renewal approaches. There is always some uncertainty as to whether the city's representatives will agree to a renewal, and as a result the average utility operator is tempted to permit his property to depreciate until the matter is definitely settled, instead of making repairs and replacements which may never yield him a profit. In order to escape from these troubles, many a city has recently adopted a form of franchise known as the *indeterminate permit,* which authorizes a utility to continue its operations indefinitely, subject only to the right of the municipality to purchase the utility outright and operate it with its own personnel. Elaborate provisions are included concerning the manner of purchase and the method of determining the price to be paid. Such an agreement, if properly drawn, should be reasonably satisfactory to both parties. Its only unfortunate element, from the standpoint of the public, is that it binds the city to continue to accept the services of the utility which already happens to be in the saddle, or else to go directly into the utility business. There can be no substitution of one private company for another.

Many other matters are also covered by a present-day utility franchise. The right of eminent domain is granted, and care is taken to specify the conditions under which it may be used. General provisions as to quantity and quality of service may be included, to be interpreted or even modified by the public service commission when necessary. There are usually clauses concerning extensions of service, the location of utility structures, such as poles, pipes and tracks, with reference to city plans, the floating of security issues as approved by the commission, and arbitration of questions in dispute. Even if the franchise is of the fixed-term variety it may prescribe in detail the conditions of municipal purchase. Distribution of certain

surplus profits between the city and the utility may be required.

It is no longer a general practice to include in the franchise a statement of the maximum rate which may be charged. Such a statement is unnecessary, in view of commission regulation of both rates and service. Of course, there is a very definite limitation on the power of a public service commission to prescribe utility charges. It may not fix charges so low that they yield an inadequate return. If it does, it will run afoul of federal and state constitutions.

The fifth and fourteenth amendments to the federal constitution provide that neither the federal government nor the states may "deprive any person of . . . property without due process of law." Most state constitutions contain substantially the same guarantee, in similar terms. Now utility corporations are artificial persons, and therefore are protected by these clauses. Their property cannot be taken from them without due process of law—that is, in an unreasonable manner. If their profits are fixed by law, they must be fixed at a point sufficiently high to bring a reasonable return. Anything less, according to the courts, would amount to confiscation.

Smyth v. *Ames*

In the famous case of Smyth *v.* Ames,[4] decided in 1898, the Supreme Court of the United States made a statement which still remains fundamental in utility rate regulation. "We hold," said the Court, "that the basis of all calculations as to the reasonableness of rates to be charged . . . must be the fair value of the property being used by it for the convenience of the public."

What, on its face, could be a more simple statement? What could be more equitable? There must be a reasonable return on utility property, taken at its fair value. Everyone should be willing to accept that principle. In fact, everyone is. The difficulties arise when the principle

[4] 169 U. S. 466.

must be applied. Only then do the vagueness and uncertainty of its phraseology become apparent.

Take the typical case of a public service commission which has just received a request from a utility for an increase in rates. The commission must decide whether the increase is justified—that is, whether the present rate fails to yield a reasonable return on the fair value of the utility's property. First of all, it must decide what is a reasonable return. And on this point there is no general agreement. Some commissions and courts have insisted upon the adequacy of six per cent; some have regarded eight per cent as proper. Seven per cent is probably the most commonly accepted figure. The real test of the reasonableness of any rate is whether it will yield a return sufficient to permit the proper maintenance and development of utility property. Looked at from this standpoint, there is no one rate of return which may be regarded as reasonable and proper at all times and under all circumstances. A higher rate may be necessary in order to attract private capital into newly established utility enterprises, or newly developed sections of the country.

What Is Fair Value?

When the question of what constitutes a reasonable return has been finally settled, the work of the public service commission has scarcely begun. For this rate must be *on the fair value of the utility's property,* so valuation proceedings must be begun to determine what the property is actually worth. What tests can be applied to determine fair value? The ordinary test of the value of an article, whether it be a pair of shoes or a factory, is its selling price. Most things are worth what they can be sold for—no more and no less. But it is obvious that this commonly accepted measure of value cannot ordinarily be applied in the case of a public utility. For one thing, utilities are not bought and sold every day. A few bonds or a few shares of stock may change hands, but their selling price cannot be accepted as a true indication of the entire utility's value. And it is very seldom that a public service

commission is asked to put a value upon a utility which has recently changed hands. Even if there has been a comparatively recent change of ownership, it has probably been accompanied by consolidations, smaller companies being bought at nominal prices which give no indication whatever of their true value, and paid for in stock of uncertain worth. Or there may have been a receivership, and the utility may have passed under new ownership at a fraction of what it should have brought. Selling price is a totally unsatisfactory measure of a utility's value. Some other standard must be found.

It may be suggested that value should be found by capitalizing earnings. In the field of competitive business there is no doubt that a very close relationship exists between value—selling price, if you will—and the amount of capitalized earning power. It is nothing more than common sense to say that under normal conditions the business which produces a net revenue of two million dollars a year is worth more than the business with a net income of one million. But this test fails completely when used to determine the value of a public utility for rate making purposes, for it involves reasoning in a circle. An illustration should make this clear. Suppose the public service commission were asked to pass upon the question of whether a net annual revenue of four hundred thousand dollars gave a reasonable return upon the value of a gas company's property. If it capitalized this four hundred thousand at an agreed rate of return—say eight per cent—the result would be five million dollars. The company's property would then be worth five millions under this formula, and the question to be decided would then be: is four hundred thousand dollars a fair return on the five millions? The answer, of course, would be in the affirmative. It would always be in the affirmative, no matter what the amount of the earnings, for it would be possible to justify any return, however large or small, by this simple process. Value would be the capitalized value of the earnings, and a fair return upon that value would be the earnings themselves.

When the Supreme Court, in the case of Smyth *v.* Ames, declared that the return allowed to a utility should be *on the fair value of the property,* it recognized that the ordinary tests of value could not be applied. So it set up a formula of its own—the formula which is still given at least lip worship by all courts and public service commissions. Said the Court: "In order to ascertain . . . value, the original cost of construction, the amount expended in permanent improvements, the amount and market value of bonds and stocks, the present as compared with the original cost of construction, the probable earning capacity of the property under particular rates prescribed by statute, and the sum required to meet operating expenses, are all matters for consideration."[5] Here, certainly, were enough factors to occupy the attention of any public service commission. But the question might fairly be asked: How much emphasis should be placed on each element? Should original cost of construction, for example, count for more or less than market value of bonds and stock? The Supreme Court anticipated this query by announcing that each factor should be given such weight "as may be just and right in each case." In other words, it simply dodged the issue, and left it for public service commission rulings and later court decisions to make clear, if possible.

When a public service commission begins valuation proceedings at the present time, it at least makes a show of recognizing all these factors. It presents evidence covering every point. But some matters are much more important than others, and are treated as such. In fact, some of the elements mentioned by the Supreme Court are normally accorded nothing more than the scant courtesy of referring to them in a perfunctory way. Take the amount of bonds and stock as an example. It is generally recognized that in many instances the amount of capitalization bears very little relation to actual investment, reproduction cost, or earning power. Sometimes a utility is undercapitalized; much more commonly it is overcapitalized.

[5] 169 U. S. 466.

But in either case it would be obviously unfair to accept the total of stock and bond issues as a satisfactory evidence of value. The market value of stocks and bonds may be a slightly more satisfactory indication of what a utility property is worth, for it represents the composite judgment of the business community as to the property's earning power. It must be recognized, however, that flagrant circular reasoning is here involved. The bonds and stock sell at a high figure because a high rate of return is permitted. If a still greater return were allowed, they would command a still better price. So it is undesirable, in determining value for rate-making purposes, to place great emphasis on the market value of securities. That factor is too closely related to the rate whose reasonableness the commission is trying to determine. Exactly the same objection can be made to another of the factors listed by the Supreme Court —the probable earning capacity of the property under particular rates prescribed by statute. As a rule, very little importance is attached to this element.

Operating expenses, also, are given little consideration by public service commissions in valuation cases. The most common practice is to present a statement of operating expenses, which can readily be obtained, so that if a case is carried to the courts it will readily be seen that operating expenses have not been entirely forgotten. The chief interest of the commissions, as far as operating expenses are concerned, should be to make certain that minor improvements charged to current expense, and therefore paid for by the utility users in the form of adequate rates, do not later appear in the list of permanent assets, to be paid for a second time by means of higher valuations. Such practices could easily be prevented by proper accounting control, but in many states the public supervision exercised over utility accounting methods is still unsatisfactory.

Another factor which must be considered is the original cost of constructing a utility's property. Naturally, original cost includes also the actual amount expended for

permanent improvements. There can be no doubt that a great deal of importance should be attached to the cost element in determining the value of a utility. But it is not always an easy task to learn the exact amount of the investment, especially with regard to utilities in operation prior to the period of active commission control. In some cases original records have been lost or destroyed, or they are in such condition as to be practically valueless. Much of the property with which business was first begun has long since worn out or become obsolete, and at times there is no way of telling whether the property which has taken its place was purchased out of capital or current income. It is easy, however, to exaggerate the difficulty of determining original cost. For the large majority of public utilities, in all probability, a fair approximation can be reached.

When an estimate of original cost is prepared, it is a practically universal custom to allow for certain overhead expenses, which may fairly be called the cost of organization. The men who combine for the purpose of launching a utility enterprise are under heavy expense from the very start. They must make preliminary surveys. They must obtain a charter from the state, and a franchise—probably from the city. They must arrange for the engraving and printing of securities. They must have plans and specifications prepared by competent architects and engineers. They must purchase the necessary building materials and supplies, and employ labor, both skilled and unskilled. They must have competent superintendents and managers. From the very day their enterprise is begun they must pay taxes to city, state and nation. These things cost a great deal of money. Securities may be issued at once in order to secure the necessary cash, and in that case interest charges must be met. These overhead costs are the cause of a great deal of disagreement in valuation cases. While the representatives of the utility and of the city are usually agreed that some allowance should be made for overhead, it often happens that their views are widely divergent as to just what the allowance should be. The most common

practice is to add a certain per cent—perhaps fifteen—to the flat cost of original construction, instead of trying to estimate separately every phase of overhead expense.

Nearly every large private business includes among its assets an item known as good will. This item is intangible, but none the less real. It may actually be worth more than the physical plant and equipment. It represents an established demand for the commodity or service. When people choose the products of one manufacturer rather than those of another, or deal with one shopkeeper instead of his rivals, the preferred business man has a marked advantage. His land and buildings may be worth no more than the land and buildings of competitors, but the value of his business may actually be several times as great. The difference is due to his firm hold on public favor—in other words, good will. Now, the question sometimes arises as to whether a public utility is entitled to a separate allowance in its valuation for good will—the assumption being made, of course, that it actually has the good will of the public. The courts have answered this question by saying repeatedly that good will cannot be included in valuation proceedings. The phrase does not have the same significance when applied to a utility that it has in the field of unrestricted competitive enterprise, for in most instances the man who is dissatisfied with the service rendered by a utility must continue to deal with it notwithstanding. He has no practical alternative. The force that makes him a permanent customer may be sheer necessity instead of good will.

An item which has occasioned considerable controversy in valuation cases is *going value*—that is, the value of a utility as a going concern, as distinguished from the value of the land, buildings and equipment which comprise it. In one case the Supreme Court of the United States expressed its desire not to limit the value of a privately owned and operated water plant "to the bare bones of the plant, its physical properties, such as its lands, its machinery, its water pipes or settling reservoirs. . . . The value in equity and justice must include whatever is con-

tributed by the fact that the connection of the items makes a complete and operating plant. The difference between a dead plant and a live one is a real value.''[6] Yet there have been other cases in which the Supreme Court has expressly disallowed any addition for going value.[7] As a matter of fact, it is difficult to find a sound justification for the going value concept, when used to increase a utility's rate base. There is a real difference, of course, between the utility as a co-ordinated workable whole on the one hand, and the utility as a collection of land, buildings, machinery, tracks or pipes on the other, but that difference should be regarded in terms of ability or inability to make money. The live plant is worth more; that is why it is permitted to charge the public. The dead plant charges no rates, it reaps no profit, and as a result it has only scrap value.

Assuming that an allowance is to be made for going value—and this assumption fits the practice of most commissions and courts—the problem still remains of determining how much should be added to the actual cost of construction. There is no one rule which finds universal acceptance. Sometimes going value is defined in such a way that it is just about equivalent to the overhead costs already described—the legal, engineering, financial and other outlays made during construction, before the period of adequate return. If it is used in lieu of these costs, there can be no objection to its inclusion in the rate base.

Then there is the present cost of construction, the amount it would take to reproduce the utility today. It is in connection with this factor that utility companies have made some of their wildest claims. In one case, for example, many miles of gas mains had been laid under unpaved city streets. Later these streets were paved, and when the utility's representatives set about the task of estimating the cost of reproducing its plant and equipment they included the expense of tearing up the new pavements and then replacing them. This claim was disallowed by

[6] Omaha *v.* Omaha Water Co., 218 U. S. 180.

[7] See, for example, Cedar Rapids Gas Co. *v.* Cedar Rapids, 223 U. S. 655, and Galveston Electric Co. *v.* City of Galveston, 258 U. S. 388.

the court.[8] Today the cost of reproduction is generally understood to be the cost of re-creating plant and equipment at present prices and with modern methods, but under original physical conditions.

Original or Reproduction Cost?

When a public service commission sets about its task of valuing a utility for rate-making purposes, there are really just two outstanding factors, of the many enumerated by the Supreme Court. On those two factors it must concentrate its attention. One is the original cost of construction; the other is the cost of reproduction. It must be remembered that the years immediately preceding 1898, when the decision was given in the case of Smyth *v.* Ames, had been marked by no very sudden changes in the price level. Prices had long been declining, but very gradually. In all probability, therefore, the Supreme Court justices saw no very clear distinction between original cost and cost of reproduction. Whichever was taken as a measure of value, the result would be about the same. But the price inflation which came about as a result of the World War put an entirely new face on the matter. Original cost and reproduction cost became two very different things; today they are still very different. A utility constructed in 1910 at a total outlay of three million dollars might cost five millions to build today, even assuming original physical conditions. The question at once arises: Should this utility be permitted to earn a fair return on the three million dollars actually invested, or on the five million dollars necessary to re-create it? If that question is answered in favor of original cost—that is, actual investment—hundreds of millions of dollars are saved to the utility users of the United States. If it is answered in favor of reproduction cost, hundreds of millions are added to the earnings of utility companies. Small wonder, therefore, that the utility interests and the representatives of the cities are usually sharply divided on the matter. Small wonder that the debate is always heated, and sometimes bitter.

[8] Des Moines Gas Co. *v.* City of Des Moines, 238 U. S. 171.

The principal argument for reproduction cost is that it adjusts the return on the investment to changes in the price level. When prices rise, the investor needs more dollars in order to purchase the same number of commodities and services. When prices fall, a smaller number of dollars will suffice. And if the value of a utility is fixed anew with every substantial change in the level of prices, then the rates which may be charged will fluctuate accordingly, the actual return to the investor in terms of purchasing power always remaining the same. To the extent that competition permits, private, unregulated businesses make this adjustment as a matter of course. When their costs rise because of changes in the general price level, they increase the price of their products. It is urged that regulated utilities should be given the same privilege.

The strength of this contention cannot be denied. But there are many valid arguments in favor of actual investment as a proper measure of utility value. Perhaps most important of all, actual investment provides a permanent basis for fixing rates. Once an agreement has been reached as to the amount invested, there can be no further controversy. The amount remains constant, subject only to depreciation and to the addition of permanent improvements. It is not necessary to conduct fresh valuation proceedings at frequent intervals, at a cost which may mount into the millions of dollars for any important case. This line of reasoning was forcefully developed by Justice Brandeis of the United States Supreme Court, in his minority opinion in the Southwestern Bell Telephone Company case of 1923. If actual investment were accepted as the sole criterion of value, he pointed out, "the rate base would be ascertained as a fact, not determined as a matter of opinion. It would not fluctuate with the market price of labor, or materials, or money. It would not be distorted by the fickle and varying judgments of appraisers, commissions, or courts. It would, when once made in respect to any utility, be fixed for all time. . . . The wild uncertainties of the present method of fixing the rate base under the so-called rule of Smyth *v.* Ames would be avoided; and

likewise the fluctuations which introduce into the enterprise unnecessary elements of speculation, create useless expense, and impose upon the public a heavy, unnecessary burden. . . . The expense and loss now incident to recurrent rate controversies is . . . very large. . . . The direct expense to the utility of maintaining an army of experts and of counsel is appalling. The indirect cost is far greater. The attention of officials high and low is, necessarily, diverted from the constructive tasks of efficient operation and of development. The public relations of the utility to the community are apt to become more and more strained. And a victory for the utility may in the end prove more disastrous than defeat would have been. The community defeated, but unconvinced, remembers; and may refuse aid when the company has occasion later to require its consent or co-operation in the conduct and development of its enterprise.''[9]

The utilities, for the most part, have stood solidly behind the reproduction theory of value. This is natural enough, for the last decade and a half has been a period of rising prices. Reproduction cost has been in excess of investment, and therefore has involved a larger return. But it is only fair to ask what will happen if the next decade and a half proves to be a time of falling prices. Prices have almost invariably declined after great wars, and the years 1930-45 may follow the usual trend. If so, the utility operators who now urge the addition of twenty-five or fifty per cent to the actual cost of construction because of rising prices should in all fairness advocate a corresponding deduction from the construction cost of utilities which were built at the price peak. The reproduction theory is quite satisfactory from the utilities' standpoint when the price level is rising, but when prices are falling it may prove far from satisfactory and far from equitable. It does not protect actual investment.

There is another aspect of the matter. A large percentage of utility investors—most of them, in all probability—

[9] Southwestern Bell Telephone Co. *v.* Mo., 262 U. S. 276. Justice Holmes concurred in this minority report.

receive a limited return, *fixed in dollars,* regardless of changes in the price level. This is true of bondholders, and practically the same conditions apply with regard to holders of preferred stock. So if a utility is permitted to receive a larger return on its investment because of rising prices, virtually the entire benefit of the extra profit will accrue to the holders of common stock. Under no circumstances, therefore, is it possible to justify a theory of value which calls for an increased return exactly proportionate to the increase in prices. Such a theory would yield a huge gain to a favored few, and nothing additional to the remaining investors. To illustrate: Let us suppose a public utility built in 1910 at a cost of ten million dollars. Three and a half millions of the total investment may be in the form of common stock; the remaining six and a half millions in the form of preferred stock and bonds—chiefly bonds.[10] Due to changes in the price level, it would probably require fifteen millions to reproduce this property today. Now, if we fixed the value at fifteen million dollars, and permitted a rate sufficiently high to yield seven or eight per cent on that amount, what would happen? The bondholders would continue to receive five or six per cent on the amount they had invested. The holders of preferred stock would still be paid seven per cent on the total of their investment. And the owners of common stock would receive the increase on their holdings, plus the increase on preferred stock, plus the increase on bonds. In this case, they would earn a profit on their own three and a half million dollars, and also on the full amount of the five million addition value. Their net gain would be more than one hundred and forty per cent, all because prices had risen fifty per cent. Obviously, if the utilities are going to insist upon higher valuations whenever prices rise, they must admit, as a matter of simple justice, that investments receiving a fixed return do not enter into the matter.

[10] Some careful students estimate that the percentage of common stock issued by the average utility is still lower than in our assumption. See, for example, John Bauer, *op. cit.*, pp. 122-5. It is safe to say, therefore, that our assumption is conservative.

The Attitude of the Supreme Court

Here, then, are two conflicting theories of value. One accepts cost of construction or actual investment as the proper measure; the other holds that the true test is cost of reproduction. Which viewpoint has been accepted by the courts? The truth of the matter is that the United States Supreme Court has given no clear-cut support to either doctrine. At different times it has given comfort to both camps. In one case, decided in 1909, it made the definite statement: "If the property . . . has increased in value since it was acquired, the company is entitled to the benefit of such increase."[11] This is certainly a definite recognition of the reproduction theory, though made before the period of rapidly rising prices. But compare the 1909 words of the Supreme Court with a statement which it made in 1923. Said the Court in the Atlanta Gas case (decided June 11, 1923): "The refusal of the commission and of the lower court to hold that . . . the physical properties of a utility must be valued at the replacement cost less depreciation was clearly correct."[12] What, then, is the proper basis? Not actual investment; the Supreme Court has insisted time and again that something must be added to the mere cost of construction in recognition of increased prices.[13] The present doctrine seems to be that in a period of rising prices something must be added to actual investment, *but that the addition need not be proportionate to the increase in the price level.* If prices have risen forty per cent since the utility was built, then a certain amount—perhaps ten per cent—must be added to the cost of construction in determining full value. But why ten per cent? Why not twenty per cent, or only five? Perhaps either of these figures would satisfy the Supreme Court. It is impossible to tell. The chief concern of the

[11] Willcox *v.* Consolidated Gas Co., 212 U. S. 19.

[12] Georgia Railway and Power Co. *et al.* *v.* Railroad Commission of Georgia *et al.*, 262 U. S. 625.

[13] See, for example, Southwestern Bell Telephone Co. *v.* Pub. Serv. Comm. of Mo., 262 U. S. 276, and Bluefield Water Works and Improvement Co. *v.* Pub. Serv. Comm. of West Va., 262 U. S. 679.

Court seems to be that some recognition, however slight, be given to reproduction cost. Full recognition certainly is not necessary. It should be added that land is commonly listed at present value.

Of course, all this is rather indefinite. Public service commissions are placed under the embarrassing necessity of valuing utility properties for rate-making purposes without knowing exactly what standards of procedure they are supposed to adopt. First they must find the amount of the original investment; that much is certain. Then they must ascertain the reproduction cost. If reproduction cost is higher, as it is fairly sure to be under present conditions, they must take some portion of the difference between the two figures, and add it to original investment. What portion of the difference they shall take is primarily a matter for their judgment. But if their judgment fails to accord with that of the Supreme Court, their findings will be overruled.[14]

As if the whole question of valuation were not sufficiently involved, the United States Supreme Court introduced a fresh complication in 1923. In the Southwestern Bell Telephone Company case, after considering all the usual factors, it said: "In determining the value of a public utility, . . . *an honest and intelligent forecast of probable future values is essential.*"[15] It is doubtful whether the learned justices who concurred in this statement realized its full significance. Yet it is clear and unambiguous. Taken literally, it means that every time a utility is valued, consideration must be given not only to its original cost of construction and present cost of reproduction, but also to the cost of reproducing it at some time in the future! There must be a guess as to the future trend of prices. The Court speaks of "an honest and intelligent forecast," but "honest guess" would be the better phrase. If any man

[14] Some writers take the view that the decision of the U. S. Supreme Court in the Atlanta Gas case is a definite recognition of actual investment as a proper rate base. See, for example, John Bauer, *op. cit.*, Chap. V. But their arguments probably confirm the old adage that the wish is father to the thought.

[15] 262 U. S. 276.

could forecast with reasonable accuracy the future trend of prices, he need not waste his time and energy serving on a public service commission. His opportunities for profit would be almost beyond imagination. The whole world would be bidding for his services. Many persons at first believed that the words "honest and intelligent forecast" were inserted without any intention of introducing a new factor into rate-making. They were not mentioned in two important valuation cases decided three weeks after the Southwestern Bell Telephone Company case.[16] But in the case of St. Louis and O'Fallon Railway Co. *v.* U. S., decided May 20, 1929, the Supreme Court definitely re-affirmed its views concerning the necessity of a "forecast." This attitude very nearly reduces valuation proceedings to the realm of pure speculation.

The matter of depreciation still remains to be considered in connection with utility valuation. After the property of a utility has been in service for a number of years it is quite certain to be worth something less than when it was new. This reduction in value may be due to a number of factors, such as wear and tear, obsolescence, inability to meet increased or altered demand, accident, legislative interference. Whatever the cause, depreciation always exists. It does not apply to land. Moreover, its evil effects may be modified by making regular repairs and replacements, and also by setting aside adequate reserves. But every reasonable person should be willing to admit that a twenty-year-old utility is worth something less than a new utility which resembles it in all other respects. The old property may be giving quite as good service as the new, yet the unseen factors of age, decay and obsolescence have been quietly at work all the while. As one writer puts it: "A lead pencil which has been sharpened down to half its length retains its writing efficiency, but the investment in the pencil has been half used up and the value of the pencil has certainly been diminished fifty per cent."[17]

[16] The Bluefield Water Works and Atlanta Gas Co. cases.

[17] Donald R. Richberg, writing in the volume edited by Morris L. Cooke which has already been cited. See p. 67.

This long explanation is necessary because many utility operators consistently declare that there is no such thing as depreciation, when applied to a properly maintained utility. The utility, they say, never wears out. With proper care it can always be kept in a condition of one hundred per cent efficiency, ready at all times to serve the public. Pipes, rolling stock, buildings wear out, of course, but they are replaced whenever occasion requires. The utility as a whole remains unimpaired.[18] This viewpoint has not found much favor among public officials, however. Commissions and courts nearly always require a deduction for depreciation when value is being determined. On the other hand, they permit a utility to protect itself against loss by including a depreciation charge in its operating expenses.

It has already been pointed out that in most states the utilities are controlled by state public service commissions having state-wide jurisdiction. The members of these commissions are commonly appointed by the governor, though in some instances they are still elected. Terms of office range from three to ten years, with six-year terms most common. Usually there are three members, though a few states have five-member commissions, and one has a commission of seven. As might be expected, salaries vary widely. The minimum is two thousand dollars a year, and the highest paid by any state is fifteen thousand.

State or Municipal Control?

With the growth of home rule sentiment in virtually every section of the United States, many persons have urged that utility control should be taken out of the hands of state-appointed or state-elected commissions, and placed directly in the hands of commissions that have been locally chosen. They have stressed, with reason, the obvious fact that utilities are essentially the product of the cities, and that in order to serve urban populations

[18] This argument is ably developed by L. R. Nash, *op. cit.*, p. 185 *et seq.*

they must make use of city streets or other city property. As a matter of simple justice, it has been said, the people who pay the bills should have a voice—through their representatives, of course—in such matters as rates and service.

But there are strong arguments in favor of state control. For one thing, the scope of utility operation is constantly expanding, while the jurisdiction of municipal commissions remains constant. A street railway company may serve a number of neighboring communities. Natural gas mains often stretch from state border to state border, and even across; electric power lines extend for scores or even hundreds of miles; telephone and telegraph companies fling their wires across the continent. Under such circumstances, even state commissions find themselves constantly hampered for lack of jurisdiction. With local commissions the problem would be intensified many fold.

Moreover, the expense of effective regulation is so great as to put it practically beyond the reach of all but the largest metropolitan centers. Consider the case of the smaller municipality which desires to have its own public service commission. It must have able commissioners, and pay them accordingly. It must provide them with a competent staff of engineering, statistical, accounting and legal experts. It must duplicate the facilities of neighboring towns which are in turn regulating their utilities. Unless it does these things, it is unprepared to give intelligent consideration to the claims of great utility corporations.

Some persons also object to local regulation of utilities on the ground that it makes the city both advocate and jury in its own case. Let us assume for a moment that municipal regulation is in effect. The utility is dissatisfied with its present rates, and asks for an increase. The city objects, on the ground that the existing schedule yields a sufficient return. One set of city officials then prepares and presents the city's side of the matter, while another group of city officials sits in judgment. This is cited as evidence that the utilities could not possibly hope to procure even-handed justice from locally chosen officials. It must be remembered, however, that in the last analysis the

success of utility operation depends in large measure upon the support of the communities served. Every utility is dependent to a greater or less extent upon local public approval, even if it procures both charter and franchise from the state legislature. Should it ignore the popular will too pointedly and for too long a period, it would inevitably find itself in trouble. Utility operators know this, and some of them spend large sums for the purpose of influencing public opinion.

On the whole, the proponents of state control seem to have the better of the argument. It is not surprising, therefore, that most state commissions have been given statewide jurisdiction. This does not mean, however, that entire control over every phase of utility regulation should be vested in the state. Franchises should be granted by the local authorities. They are more familiar with local conditions than any state body can possibly hope to become, and they are more likely to know what conditions should be imposed for the protection of the community. The objection is sometimes raised that city officials may be corrupt, and barter away the public's rights without receiving adequate guarantees in return. But corruption is not peculiarly a characteristic of city government; it is quite as likely to be found in the government of the state. Then there are such important matters as rates and service. It might be feasible to give the cities a certain measure of control over them, perhaps vesting final jurisdiction in the state. With regard to such matters as the incorporation of utilities and control over their finances and accounts, the need for state supremacy can scarcely be questioned.[19]

Stimulating Utility Efficiency

One of the chief difficulties with utility regulation is that it tends to destroy the mainspring of ordinary private business—the hope of large profits. In fact, the more effec-

[19] It has been suggested that local commissions, exercising virtually complete control over utility matters, be set up for such large metropolitan centers as New York, Chicago and Philadelphia. See John Bauer, *op. cit.*, p. 362.

tive regulation becomes, the smaller grows the likelihood that utility operators will be able to reap vast gains. Public service commissions establish utility rates, fixing them so low that the net return will presumably not be in excess of seven or eight per cent. On the other hand, the utilities are virtually guaranteed this seven or eight per cent return, provided they avoid wildcat speculation or gross mismanagement. Most of them are protected against competition. The result is an inevitable tendency on the part of utility operators to contemplate inefficiency and waste without grave concern. The average business man is constantly trying to find newer, better, cheaper and quicker ways of getting things done. He hopes to be rewarded with larger profits. But why should the management of public utilities bother with innovations if earnings are fixed within rather narrow limits?

Of course, this does not mean that every utility is hopelessly inefficient, apathetic toward new methods and indifferent to new schemes. But there can be little doubt that the tendency to slump exists. How can it be overcome? With the normal incentive of large profits gone, what stimulus can be found? One device which has found considerable favor in England, though it has been tried very little in the United States, is known as the sliding scale. The representatives of the utility and of the public agree upon a definite rate of return which is to be earned, such as seven per cent, and a price which is to be asked for the service—perhaps a fare of seven cents, if the utility is a traction company. The franchise then provides for a gradual increase in the rate of return with every reduction in the price charged to the consumer, and for a gradual reduction of the rate with every increase in charges. To carry out our illustration, the traction company which earned seven per cent with a seven-cent fare would be permitted to earn eight per cent if it adopted a six-cent fare. But should it increase the fare to eight cents, it would be allowed to retain only an amount equal to six per cent of the value of its property. Now it is obvious that every utility would like to increase its earnings. Under the sliding scale plan

it may do so in just one way—by reducing charges. The natural tendency, therefore, is to reduce the price, regardless of what happens to the quality of service. Of course, public service commissions are supposed to be watchful guardians of the people's interests, making certain that lower charges do not bring with them inferior service standards. But commissions are not infallible, and there is always the danger that service will deteriorate, despite their most careful efforts, under the pressure for lower rates. Another serious defect of the sliding scale is that frequent revisions of the fundamental agreement between utility and city are necessary in a time of rapidly rising or falling prices. When prices skyrocket as they did in the period following the outbreak of the World War, increased charges become a virtual necessity. And unless the original agreement is changed, the utility will be severely punished, by means of a reduction in its rate of return, for succumbing to forces over which it has no control. On the other hand, when prices drop the utility will receive a profit to which it is not entitled. For a considerable period the Boston Consolidated Gas Company was the only American utility operating under the sliding scale plan. In recent years, however, a number of experiments with the sliding scale have been undertaken. Most of these have been in the field of local transportation, and have been introduced as variations of service-at-cost franchises.

A few words should be added about service at cost. As its name implies, this is a plan to secure for the public the service of utilities at exactly the cost of that service—a reasonable rate of return being permitted as an item of cost. Obviously, the fundamental principle is not new. The whole theory of utility regulation contemplates the fixing of rates at a point where they will yield a reasonable return, and no more. But in many instances there is a considerable margin between theory and practice. The rates fixed by utility commissions may yield virtually no profit at all, or an excessive gain. In the one case the utility may appeal to the courts; in the other, the public may do nothing. So the service-at-cost plan has been de-

vised. The cost of the service, including charges for depreciation and maintenance and a fair return on the agreed value of the property, is determined. Rates are then fixed, as nearly as possible, so that they will just cover this cost. If they prove too high or too low, they are increased or reduced accordingly. On its face, there would seem to be no fairer proposition than that cities should pay the exact cost of the service they receive. Some two decades ago, when the first experiments with the plan were made, it won hearty popular approval. But at the present time the utility interests are strongly behind it, and the public is inclined to be a little skeptical. For many people have learned that when a utility furnishes the service, and they pay the bills, there is no very good reason why expenses should be kept down. Service at cost obviously is not an incentive to efficiency; it may actually encourage inefficiency, especially if the public service commission is not vigilant. A number of American cities, however, have tried to eliminate this danger by providing in their service-at-cost franchises a special inducement to keep operating costs as low as possible. The inducement is simply a higher return. So here we have the sliding scale once more, though in a somewhat modified form.

Some of the more progressive public service commissions exercise a very close supervision over utility affairs, supplying them with valuable engineering, accounting and other technical advice. Occasionally they go so far that they virtually participate in the work of management. This may be a very effective way of stimulating utility efficiency. But the commissions must be composed of men who understand their jobs, or else helpful co-operation may degenerate into irksome interference. Moreover, adequate legislative authority is necessary.

One commission—the Wisconsin Railroad Commission—has for a number of years rated the utilities under its jurisdiction on the basis of the quality of service given. These ratings are published, and thus become public property. Whether they have resulted in an improvement of service standards is difficult to determine, but it seems

probable that the utility manager who permitted his company to stand near the bottom of the list year after year would eventually hear about the matter from his board of directors. The plan might well be given a trial by other public service commissions. Its only danger is the possibility of unfair treatment. Unless utilities were rated accurately, it would be better to have no rating at all.[20]

A number of public service commissions reward efficient management by treating efficiently operated utilities more leniently in rate cases, and according them somewhat higher valuations. Some commissions frankly acknowledge this policy and defend it very plausibly; many other commissions probably make a similar discrimination between efficient and inefficient companies without formal admission of the fact. It is unfortunate that this practice has grown up. Efficiency should be encouraged, of course, but other ways should be found to reward it without further complicating the highly involved process of utility valuation.

SELECTED REFERENCES

Barker, Harry, *Public Utility Rates,* New York, 1917.

Bauer, John, *Effective Regulation of Public Utilities,* New York, 1925.

Cooke, Morris L., *Public Utility Regulation,* New York, 1924.

Floy, Henry, *Value for Rate Making,* New York, 1916.

Hale, R. L., *Valuation and Rate Making,* New York, 1918.

Hartman, H. H., *Fair Value,* New York, 1920.

Hayes, H. V., *Public Utilities, Their Cost New and Depreciation,* 2nd ed., New York, 1916.

Lyndon, Lamar, *Rate Making for Public Utilities,* New York, 1923.

Maltbie, William H., *Theory and Practice of Public Utility Valuation,* New York, 1924.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 116-40 and 438-85.

Morgan, Charles S., *Regulation and the Management of Public Utilities,* New York, 1923.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XLI.

[20] For a concise account of the Wisconsin Railroad Commission's rating activities, see Chas. S. Morgan's *Regulation and the Management of Public Utilities,* pp. 261-9.

Nash, L. R., *The Economics of Public Utilities,* New York, 1925.
Pond, O. L., *A Treatise on the Law of Public Utilities,* Indianapolis, 1925.
Raymond, William G., *The Public and Its Utilities,* New York, 1925.
—— *What Is Fair?* New York, 1918.
Riggs, H. E., *Depreciation of Public Utility Properties,* New York, 1922.
Saliers, E. A., *Depreciation Principles and Applications,* New York, 1922.
Spurr, H. C., *Guiding Principles of Public Service Regulation,* 3 Vols., Washington, 1924-5-7.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XXX.
Wherry, William M., *Public Utilities and the Law,* New York, 1924.
Wilcox, D. F., *Analysis of the Electric Railway Problem,* New York, 1921.
Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chap. XLI.

Kumm, Harold F., "The Legal Relations of City and State with Reference to Public Utility Regulation," *Minnesota Law Review,* December, 1921 and January, 1922.
National Municipal League Committee, "A Correct Public Policy Toward the Street Railway Problem," *National Municipal Review Supplement,* April, 1920.
Overton, P., "Regulation of Municipally Owned Public Utilities," *Cornell Law Quarterly,* Vol. VII, 1922.
Storrs, L. S., "Place of the Street Car in the Modern City Plan," *Annals of the American Academy of Political and Social Science,* September, 1927.

CHAPTER XXX

MUNICIPAL OWNERSHIP

It is generally conceded that public regulation of privately owned utilities has accomplished less than its friends originally claimed for it. In a great many cases it has failed to protect the public interest adequately. Time after time it has been productive of disputes, uncertainties, hard feelings. Yet no one seriously suggests that we simply abolish all the public service commissions, and permit the utility companies to fix their own standards of rates and service. Many persons believe that the best way to solve the problem is to perfect the technique of regulation, making it a really effective device. But many others contend that regulation, by its very nature, is incapable of producing satisfactory results, and that cities will never secure adequate service at a reasonable cost until they own and operate their own utilities. Municipal ownership has attained the dignity of an issue. It is ponderously considered by learned gentlemen, and vigorously discussed by school debaters. Frequently it comes before the voters of a city for their approval, perhaps in the form of a proposal to buy the local street railway or gas plant.

Yet very few people who talk about the merits or defects of municipal ownership ever take the trouble to explain just what they mean. Usually they have in mind not only municipal ownership of public utilities, but municipal operation as well. Philadelphia owns a gas plant, Cincinnati owns a small railroad, and New York owns many miles of subways. Yet these utilities are leased to private operators, and for that reason they are never cited as examples of municipal ownership. Almost everywhere municipal ownership and operation go hand in hand, so perhaps it is not surprising that the phrase *municipal*

ownership should be commonly used to include both. For the sake of brevity it will be so used in this chapter.

It must be understood, also, that those who declare themselves opposed to public ownership of utilities probably do not realize what a sweeping assertion they are making. In all likelihood they accept public ownership and operation of some utilities as a matter of course. Virtually everyone does so. Roads and bridges, for example, are almost everywhere in public hands today. The privately owned toll roads of another generation are practically forgotten. So it is with water supply and fire protection. In a few small cities garbage collection and disposal are still treated as private matters, but they are generally regarded as municipal functions. The post office has been publicly owned and operated for so long a time that nearly everyone accepts the arrangement as a matter of course. In the final analysis, therefore, the principle of public ownership is not seriously questioned. The whole controversy rages over a comparatively few utilities—usually gas and electric plants, telephone and telegraph lines, and transportation facilities. Even telephone and telegraph lines can properly be excluded from a discussion of *municipal* ownership, because they commonly lie outside the local field. At least three small American municipalities have their own telephone systems,[1] but they are exceptions.

American Experience

American experience with municipal ownership of transportation lines and gas and electric plants has been rather limited. Only thirteen cities in the United States own and operate their street railway systems, though the list is headed by such large urban centers as Detroit, San Francisco and Seattle.[2] Slightly more than one hundred gas

[1] Brookings, S. D., Barnesville, Minn., and Galtry, Okla.

[2] To the list might be added two others: St. Louis and Minneapolis, since each city owns and operates a small mileage in connection with its waterworks. The San Francisco municipal system operates in direct competition with a privately owned street railway company. On Market Street, the principal business thoroughfare of the city, the two lines operate side by side.

plants are municipally owned, as compared with nearly seventeen hundred in private hands. Practically all the larger cities rely on privately owned gas plants for their supply.[3] In the field of electric light and power municipal ownership has made the greatest gains. Forty per cent of the electric plants are in municipal hands. They only serve, however, about one-tenth as many persons as the private systems. Obviously, municipal ownership of these essential services has not proved very popular in the cities of the United States.[4]

European Experience

In Europe, however, the situation is very different. Most of the larger British cities own and operate their local transit systems—tramways, as they call them, and municipal ownership of local transit lines is the rule in Germany also. Nearly all the large German cities have their own gas plants and electric light and power systems. In Great Britain two-thirds of the electric systems are publicly owned, and though the majority of gas plants are still in private hands, a great many of the largest urban centers, including Manchester, Glasgow and Birmingham, supply gas directly to their residents.

The question may well be raised, therefore, why European cities have accepted municipal ownership so much more readily than the cities of the United States. Why is it that municipal ownership is commonly taken as a matter of course in Europe, while in this country it is only a few steps beyond the experimental stage? One reason, undoubtedly, is that private American business, with its op-

[3] Richmond, Omaha and Duluth, the outstanding exceptions among the large urban centers, are supplied with gas from municipally owned and operated plants.

[4] A few words should be added about other services performed by the cities of the United States. A great many cities, including most of the large urban centers, own and operate public markets. A considerable number of municipalities supply terminal facilities. Many own wharves and piers, and some have their own ferries. There are municipally owned and operated fuel yards, ice plants, abattoirs, laundries, central heating systems. St. Paul has a municipal bank.

portunity to develop exceptionally rich natural resources and reap vast rewards, has succeeded in attracting most of the genius of the nation. It has made private service so much more attractive than public that government can scarcely hope to compete. When a highly trained man of exceptional ability deliberately enters the permanent technical service of a city, his friends are likely to ask one another whether they have not overrated him. So it is not at all surprising that private enterprise took the initiative in providing the people of the cities with such essential public services as transportation and gas and electric supply, and that it has since been able to retain most of its early advantage. At the start it ventured where city officials did not dare to go, with the result that private ownership of utilities has come to be regarded as natural and almost inevitable—the "American" plan, many call it.

Another reason for the slow development of municipal ownership in the United States has been the inefficiency and corruption of our city governments. Even the man on the street knows that city departments are often controlled by professional politicians instead of professional administrators. He realizes that many city dollars are wasted by stupid fellows who happen to have found their way into the city's service, or actually stolen by unscrupulous rogues who have secured control of municipal affairs. Sometimes, no doubt, his imagination paints an even blacker picture than the facts warrant. He is apt to look upon all municipal officials as grafters, and all municipal governments as a scramble for spoils. Forgetting the remarkable improvements of the past twenty-five years, he may think of the present-day administration of his own city in terms of New York under Boss Tweed or Philadelphia under its infamous Gas Ring. Small wonder, therefore, that the average man hesitates to endorse a policy of municipal ownership. He fears that such a plan would mean nothing more than additional jobs for the politically faithful, and additional taxes for everyone else.

Nor must the traditional American concept of government be overlooked. For nearly a century and a half we

have been taught to regard government as a necessary evil —something to be endured, but watched with suspicion at every turn. We have looked upon it as primarily an agency of repression—a means of enforcing society's *thou shalt nots*. Within the last few decades the emphasis has shifted. Government has become in large measure an agency for the satisfaction of society's desires. Our cities spend more time and money educating people than punishing them. City officials devote attention to the prevention of disease before they consider its cure. They provide at least a dozen different kinds of recreational facilities. But the old tradition clings tenaciously. Many people still believe that governmental activity should be kept within as narrow limits as possible, and that its efforts should be directed toward repression instead of service.

It must not be assumed, however, that the slow growth of the municipal ownership movement in the United States can be traced entirely to the superior efficiency of private enterprise and the time-honored policy of governmental non-interference. Far from it. Constitutional and legal obstacles are responsible in no small measure. The mere fact that a majority of a city's voters are in favor of municipal ownership and operation of the local street railway, electric light and power system, or gas plant does not mean that such a policy will inevitably be adopted. First it must be ascertained whether the city possesses the requisite authority. Special permission from the state legislature may be necessary. Or, if the grant of power in the charter is sufficiently broad, there may be a constitutional debt limit which acts as an effectual barrier. Suppose, for example, a city's debt is already close to the maximum prescribed by law. How can it obtain enough money to purchase the privately owned utility which it desires to take over? In some states bond issues for the purpose of buying utility properties are outside the debt limit, but this is by no means the universal rule. Moreover, other legal difficulties are almost certain to crop up. The franchise provisions of the utility which is to be purchased must be respected, and in many instances they are so

worded as to make it possible for utility owners to insist upon unreasonable terms. After months of bargaining, city officials may be forced to the conclusion that under existing conditions municipal ownership is too expensive. If a great city were to spring up overnight, without utilities but with a pressing need for them, it might be able to supply that need directly without much delay and at reasonable cost. But great cities do not spring into being overnight. They are the result of a long period of growth, and during that period privately owned utilities, privately held franchises, private privileges and private rights come into existence. These things cannot be swept lightly aside. They must be treated with all the respect guaranteed to life, liberty and property by national and state constitutions. If they interfere with freedom of municipal activity, the municipality has no remedy.

The real facts concerning municipal ownership are exceedingly difficult to obtain. Some students of the question contend that it is cheaper, more responsive to public opinion, and generally more satisfactory than private ownership. Others declare, with equal assurance, that it is more expensive, more subject to political influences, and a total failure wherever tried. Even with respect to a single utility the most violent disagreements commonly occur. The officials in charge of a municipal utility may issue a report indicating its net earnings and its financial condition. This report immediately becomes the subject of a long discussion. Somebody denies that it is a fair statement, because the allowance for depreciation is inadequate or the addition to capital account should have been charged to operating expenses. Somebody else rushes to the dedefense of the utility's accounting methods, and demonstrates to his own satisfaction that there have been no improper entries. In the case of a publicly owned utility, there may be a half dozen different investigations. And it almost invariably happens that the investigators arrive at radically different conclusions. In the midst of such a welter of charges and counter-charges, investigations and

refutations, statements of fact and flights of fancy, it is almost impossible for the impartial student to reach any satisfactory conclusions.

Arguments for Municipal Ownership

Many arguments have been advanced in favor of municipal ownership. Several of them are based on the assumption that regulation of privately owned utilities is unsound in theory, unsatisfactory in practice, and inevitably a source of trouble and dissatisfaction. Regulation, it is said, is the attempt to make private companies act as if they were not private companies. It ignores the plain fact that as long as public utilities remain in private hands, utility services will be dominated by men whose interests conflict with the interests of the public. Public service commissions may put a stop to the worst abuses of private ownership; the courts may deny the wildest claims of utility operators. But the conflict is certain to go on unceasingly, with the public usually receiving the poorer end of the deal. As long as the primary responsibility for providing adequate service rests with private persons, whose chief anxiety is to secure profits, there is no hope of improving the situation materially. Public service commissions may regulate, but they cannot induce utility managers to put the public welfare before the welfare of utility stockholders.

So runs the argument, and it deserves serious consideration. Is it really true that regulation has everywhere failed, and must continue to fail? If so, then the case for public ownership is indeed strong. Those who reply in the affirmative are able to produce a vast quantity of evidence. They point to valuable franchises literally given away, or sold at a fraction of their true worth. They call attention to special privileges worth millions of dollars which have been distributed by improvident or dishonest municipal officials among "deserving" utility operators, only to be added to the values on which the public must pay. They mention the indisputable fact that when a city

buys a utility from its private owners, it frequently learns that it must include in the purchase price a considerable sum for the franchise which went to the utility as a gift years before. Franchises are almost inevitably breeders of trouble and dissatisfaction. They can be granted at will, but they cannot be recalled so easily. It is a very real merit of municipal ownership, therefore, that it eliminates the necessity for franchises. The city performs essential services directly, instead of leaving them to private enterprise. And so one of the dangers of any system of private utility ownership is removed—the danger that public rights will be bartered away by public officials of questionable intelligence or morality.

Another charge laid at the door of our present regulatory system is that it has failed to prevent vast inflation of values, and that these swollen values have become the accepted basis of utility earnings. Every privately owned utility, it is said, has methods of calculating its value which bring the total to astonishingly high figures. "It denies depreciation upon its investments. It claims that the mules of 1888 are pulling the electric cars of 1923; that the cables are still working; that the old car barns and power houses discarded twenty years ago are still rendering public service. It claims the unearned increment in land upon which the consumers have paid interest and taxes ever since it was devoted to public service. It claims the inflated values based upon the calamity of war. It claims what it gave away and also what was given to it. It uses only addition and multiplication. Subtraction and division are anathema to it."[5] Of course, not all these claims are allowed. Alert public service commissions immediately rule out a considerable number, unless prevented from doing so by the courts. But the friends of municipal ownership contend, perhaps with reason, that many fictitious values find their way into nearly every rate case. The utilities make the total as large as possible, and the public is obliged to pay. When a city owns and operates its

[5] Quoted in Chester C. Maxey's *Readings in Municipal Government*, p. 467.

utilities, however, it never tries to inflate values. Every dollar paid into the city treasury for interest and sinking fund represents actual investment.

The policy of regulation is said to be a failure for still another reason: it makes necessary valuation proceedings at frequent intervals. Every time a utility asks for an increase in rates its value must be determined anew by the public service commission, and the commission's findings are subject to review by the courts. These proceedings frequently extend over periods of several years. An important case decided by a public service commission within twelve or fourteen months is not at all exceptional—except perhaps for the rapidity of commission action; and appeals to the courts may provide almost endless delays. Then there is the matter of expense. When the Philadelphia Rapid Transit Company was valued for rate-making purposes a few years ago, the total outlay was in the neighborhood of eight hundred and fifty thousand dollars, the utility's expenditures amounting to more than twice the expenditures of the city. The New York Edison case, still undecided, has already cost the company nearly five millions. The public and private costs of many a big case run into six or seven figures, and almost invariably private interests spend from two to ten times as much as the city they are fighting. Every utility has a large staff of trained experts—lawyers, accountants, engineers—who are ready to take the stand at a moment's notice in defense of any rate increase that may be requested. But the city has no such technicians on its payroll, and it must go hunting for them when it needs their services. Moreover, its choice is narrowly restricted, for the large majority of utility experts are already employed by privately owned utilities, or else are unwilling to jeopardize their future in the utility field by definitely aligning themselves on the side of the public. As a rule, therefore, a city enters the contest with the odds strongly against it. It does not have the money to present its side properly, and sometimes it does not even have the talent. The utility has both. It can afford to be liberal, for it is fighting the public with the

public's own money. Should its contentions be upheld by commission or court, it will get back all it spent and a great deal more in addition, in the form of higher rates.

These charges are a severe indictment of our present system of private ownership with public regulation. Are they sufficient to justify the statement that the system has failed? That question cannot readily be answered with an unqualified *yes* or *no*. For, after all, failure is a relative term. Regulation has certainly accomplished less than most persons expected of it. It has resulted in disappointment and disillusionment. On the other hand, it has produced a workable basis for city-utility regulations. In many instances it has served to protect the public against the designs of predatory private interests. In many other cases it has safeguarded private investments against the attacks of over-zealous city officials. Perhaps we should be more conservative and more accurate if we avoided such a word as failure in our discussion of utility regulation, and said instead that the system has fallen short of perfection by a considerable margin. Whether some other plan would give better results remains to be decided.

The Utilities and Politics

One of the strongest arguments in favor of municipal ownership is that it would eliminate privately owned utility interests from the field of municipal politics. Some keen students contend that the utilities are the greatest corrupting force in modern American cities. "If you will trace the corruption in politics during the last half century in . . . Pittsburgh, San Francisco, New York, Boston, Minneapolis and scores of others, you will find without a single exception that the fountain head of corruption was the privately owned public service corporation. In order to gain their end they have joined hands with the saloon, the gambling house and the red-light district, but the head and front of the sinister combination is always the public service corporation."[6] This may be putting the matter

[6] Quoted in Chester C. Maxey's *Readings in Municipal Government*, pp. 158-9.

too strongly, but there can be no doubt that in many instances privately owned utilities have spent vast sums to bribe municipal officials, and have even gone so far as to build up elaborate political organizations of their own in order to insure favorable treatment at all times. The literature of municipal politics is filled with stories of suave utility lobbyists and legislators with itching palms, who meet in secluded places where the rights of the public are traded for a few pieces of silver. Taken almost at random is this excerpt from Judge Lindsey's description of the Denver utility situation some years ago. "One of the managers and officers of the gas company . . . had kept a private memorandum of the money he had paid to various candidates on both party tickets for the city council, who were to be elected at the same time the franchises were submitted to the vote of taxpaying electors. On this memorandum were the amounts paid to the men who made the conspiracy possible to . . . corrupt the election and steal the franchises for the public service corporations. This memorandum . . . shows the payment of sixty-seven thousand dollars by him alone on behalf of just one utility, whose franchise was a mere nothing compared to others secured in that election. This money was paid to candidates and workers of both parties to pay chairmen, political workers, henchmen, ward heelers, etc. From thousands of dollars at various times paid such 'higher-ups' as the Democratic mayor and some of" the Republican boss's "more important Republican leaders, down to one hundred and fifty dollars, paid to various candidates of both parties and ten to one hundred dollars each paid numerous workers in both organizations, all was carefully recorded." The mayor "was the recipient of forty-five hundred dollars."[7] This sordid account of municipal politics is much like scores of others, with the exception of the memorandum. In most instances any record of questionable transactions is conveniently lost, instead of falling into unfriendly hands.

Of course, the picture may easily be overdrawn. Probably no one believes that all utility operators are business

[7] Maxey, Chester C., *op. cit.*, pp. 139-40.

brigands, resorting to every kind of trickery in order to accomplish their selfish ends. But it cannot be denied that in many a city there is a close relationship between the utility interests and the dominant political machine. Sometimes a sort of "gentleman's agreement" exists; the utility takes what it desires, paying well for the privilege. In other cases the utilities have become so powerful that the political organizations might almost be called their subsidiaries. It is frequently said in defense of the utility corporations that this situation is not entirely of their making. They often learn that they must dominate municipal politics or else become the victims of unscrupulous city bosses. That is true, but irrelevant. For the public is not greatly interested in knowing who first proposed the unholy alliance of vested interests and professional politics. It is much more concerned with the problem of how to dissolve this entente. Some persons say that the only satisfactory solution is municipal ownership. They contend that the urban people of the United States must choose between city-owned utilities and utility-owned cities.

Those who oppose the municipal ownership movement on the ground that the public would be unwise to attempt the management of vast utility properties through its own officials are frequently answered with the statement that our present system of regulation is in fact partial management. Any public service commission which is doing its job properly must participate in the internal affairs of the utility corporations under its supervision. It must play an important part in shaping the utilities' engineering and accounting policies. But partial management of this sort is unsatisfactory. It is hampered by the cumbersome processes of the law, and by the unwillingness of some utility operators to co-operate. So the question naturally arises: Since partial public management has been found necessary in order to protect the public interest, why not go the entire distance and let the public assume complete control of its utilities?

Municipal ownership is sometimes urged on the ground that it would result in better treatment of labor. Private

utility operators, interested primarily in profits, usually make it their business to adopt as low a schedule of working hours as the law, public opinion, and the pressure of competing industries will permit. They are but little concerned with labor and its problems, except in so far as strikes or general inefficiency retard the steady flow of income. If the current rate of wages is insufficient to maintain a minimum standard of decent living, that is unfortunate—but unavoidable. Cities, on the other hand, commonly pursue a very different policy. They pay higher wages, and require less work. In San Francisco, for example, where the municipally owned trolley system is in direct competition with a privately owned traction company, the municipal employees receive better pay for working six days a week than do the men of the private company for working seven. Almost everywhere municipal ownership and operation has been followed by an increase in wages, and frequently a reduction in hours. It is not hard to understand, therefore, why organized labor is favorably disposed to municipal ownership.

Of course, this argument has two sides to it. Some persons contend that the customary municipal policy of more pay for less work is unwarranted—that it is simply a proof of the inability of public officials to conduct the public business in a businesslike manner. Why, they ask, should a city pay more than the current rate for labor, or adopt an unusually liberal schedule of work hours? The inevitable result is to increase operating expenses, and place an additional burden on all the people. Altruism is highly commendable, but it has no place in the conduct of what is essentially a business enterprise. And perhaps the politicians who determine a city's policies with regard to its utilities are not entitled to so much credit, after all, for their generosity with the public's money!

There is still another argument in favor of municipal ownership—that it eliminates the element of private profit. Most cities are not interested in making money out of their utilities, though there are a few scattered exceptions. When they undertake the task of owning and operating

public utilities, it is usually for the purpose of supplying essential services to the public as cheaply as possible. If operating expenses can be reduced, rates are lowered as a matter of course. There is no attempt to transform surplus earnings into higher values, on which the people must pay. Moreover, municipal ownership should make possible a considerable reduction in interest charges. A city can usually borrow money at four and one-half per cent. Privately owned utilities cannot possibly secure their capital so cheaply; five and one-half or six per cent is the very best they can hope for. The difference represents a clear saving, and may be sufficient to justify materially lower rates. It seems logical to conclude that utilities which are municipally owned and operated can provide adequate service more cheaply than privately controlled utilities, *all other factors being equal.*

A great deal depends on the qualifying clause, however, for many persons contend that all other factors are not equal. In fact, the most important argument against municipal ownership is that it means increased costs, together with inferior service. It is said time and again that municipal control breeds inefficiency and waste, so that higher charges inevitably result. The foes of public ownership have whole volumes of statistics to support this contention. They point to certain cities where rates were increased shortly after municipal officials took control, or to other cities where charges remained constant but service deteriorated, according to recognized authorities. Reading these pages of statistical evidence, one begins to wonder why any city should ever be so foolish as to undertake the task of owning and operating its utilities. But the fact of the matter is that these reports tell only one side of the story. There are other volumes, prepared by the advocates of municipal ownership, which set forth in glowing terms the financial successes of municipal utilities. According to their view, public ownership and operation have proved consistently cheaper and more satisfactory than private.

The Difficulty of Finding the Facts

Now it ought not to be difficult to take the question of comparative costs out of the realm of speculation. There should be some way of determining definitely whether municipal ownership is cheaper or more expensive than private ownership, so that at least this phase of the question would be settled. But apparently no satisfactory method has yet been devised. As one shrewd observer remarked, "Laboratory experiments under which conditions can be rigidly controlled are, of course, wholly impracticable. If you have doubt as to the difficulty of comparisons, try to make a statistical analysis of the relative efficiency of operation of two privately managed utilities of the same kind, and see whether you can arrive at a result which will not be instantly and forcefully challenged on the ground of differing conditions. The field of selection in the case of publicly operated utilities is very narrow, whereas in the field of privately operated utilities it is very wide. Much depends, when such comparisons are undertaken, . . . upon the preconceived notions of the investigator. *Marked success will, in general, be exhibited in proving what it is set out to prove.*"[8]

With respect to a single utility, especially if careful records are kept, it should not be an especially difficult matter to determine the amount of profit or loss. Yet nearly every important publicly owned and operated utility is exhibited by some as evidence that government can make a financial success of utility management, and by others as proof that government ownership is always a losing proposition. Take, for example, the publicly controlled Ontario Hydro-Electric power system. According to one writer, "Public ownership has cut the retail rate in two—and a little better. It has reduced the rates, on the

[8] Joseph B. Eastman, of the Interstate Commerce Commission, in a minority report dissenting from the majority report of the National Association of Railway and Utilities Commissioners. Majority and minority reports are both published in the Municipal Index for 1928, pp. 104-8. Italics are the author's. Mr. Eastman's vigorous dissenting opinion, especially, is well worth reading.

average, over fifty-five per cent. . . . These great reductions in rates have meant the saving of over five million dollars to the people of Ontario every year." The charges made to customers "are the lowest for electric current on the continent."[9] Compare this statement with the report given by another student of the problem. "The average rates for the Ontario system are higher to the extent of over thirty per cent than those for privately operated service in Quebec, involving nearly the same aggregate capacity. . . . The Hydro system had gained its reputation through low rates for retail customers. It is charged with extravagance in its capital expenditures . . . and with inefficiency in operation."[10] Small wonder that the layman does not know what to believe, when experts differ so widely!

It may be asked why it is so hard to prove to the satisfaction of everybody that a given utility is operating at a profit or a loss. The answer is found partly in the failure of many municipal utilities to keep satisfactory accounting records. Most state public service commissions have no jurisdiction over the accounting methods of publicly owned enterprises, so city officials are free to keep such records as they see fit. Sometimes their entries are unintelligible to everyone but themselves, and quite useless as an indication of the actual results of operation. But that is only one side of the story. No matter how carefully accounts are kept, it is always possible to challenge the accuracy of the methods employed. The opponent of municipal ownership takes the records of an apparently successful publicly owned utility, and decides that the depreciation allowance is inadequate or that the services rendered by other municipal departments have not been charged at their full cost. He then proceeds to "adjust" these various items, with the result that in a short while he can prove—to the complete satisfaction of those who are willing to accept his figures—that instead of making money the utility is actually operating at a loss. In the meantime the "unad-

[9] Thompson, Carl D., *Public Ownership*, pp. 343-6.
[10] Nash, L. R., *op. cit.*, p. 347.

justed'' accounts are exhibited by advocates of municipal ownership as a vindication of their theory. Each side claims to have won the argument, and probably believes that it has.

One important difference between public and private costs of utility operation is that most privately owned and operated utilities are forced to bear a heavy burden of municipal taxation, while a city's own utilities generally go scot free. As a result, the municipal utilities enjoy a considerable advantage, amounting often to many thousands of dollars a year. Unless this fact is taken into account in comparing the costs of public and private operation, a true picture is not obtained. Yet city officials in charge of utility operation usually omit all reference to tax exemption. They are interested, quite naturally, in making as good a showing as possible, and they are much more likely to call attention to special handicaps than to favoring circumstances.

The directors of city-owned utilities frequently find it necessary to secure services or supplies from other departments of the city government. The city engineer may furnish technical advice; the city solicitor may examine franchises, or prepare minor contracts. The treasurer's office may handle the collection of bills, and the water bureau may furnish large quantities of water for various purposes. Other departments may lend occasional clerical help. Equipment originally purchased for street cleaning or some other service, and no longer needed, may be transferred. Utility accounts should then be debited accordingly. In many cases, however, the charge for such services and supplies is totally inadequate. Sometimes it is omitted altogether. As a result the taxpayers receive a false picture of their local government. They are told that the city-owned street railway or gas plant is entirely self-supporting, and as a rule they accept this statement of the city officials without attempting to examine the accounting methods used.

But there is another aspect of the matter. Differences in the accounting systems of municipally and privately

owned utilities do not always place the municipal utilities in an especially favorable light. On the contrary, they sometimes work to the advantage of the private companies. Take, for example, debt retirement. When a city issues bonds for the purpose of purchasing a utility, it is almost invariably required to pay them off as they fall due. Rates must be fixed sufficiently high, therefore, to permit the accumulation of necessary reserves. But private utilities do not attempt to accumulate reserves for debt retirement, for their debts are not retired. Instead, bond issues are refunded as they fall due. Old obligations are met by the simple process of creating new obligations. So when comparisons are made between publicly and privately owned utilities, it should be remembered that lower private rates may be due in part to the accepted private policy of shifting the interest burden to endless future generations of utility users.

Enough has been said, perhaps, to make clear that the question of comparative costs cannot be settled to the satisfaction of everyone, at least under present conditions. Advocates of municipal ownership can marshal vast quantities of statistics in support of their claim that lower charges are the rule when the public takes control. Opponents of municipal ownership can produce an equally imposing array of figures to prove their case. And so the public learns to be wary of violent partisans on both sides.

The Arguments Against Municipal Ownership

A strong argument against public ownership is that it would speedily degenerate into *political* ownership. In many American cities the professional politicians who control the local government have proved themselves totally incapable of using sound business principles—or else totally unwilling to do so. After every election the spoils of office are divided. Ward leaders become department heads or commission chairmen, while division leaders and workers must be satisfied with less important posts, but everyone is taken care of. So the question naturally arises: would better men be chosen for office if municipal owner-

ship of utilities became the general rule? There is no reason to think so. Nor is it at all likely that the change in municipal policy would awaken in the minds of the spoilsmen a sudden desire for real public service. Municipal ownership might mean nothing more than additional patronage to be distributed among the politically faithful, and additional public business to be misdirected by incompetents. Picture, if you can, the leader of the eighth ward or the boss of the east side as director of municipal transit, with his cronies and henchmen as his assistants. After four years of experience, he might actually acquire some knowledge of transit problems and feel a mild urge to improve transit standards. If so, the next election would probably sweep his faction out of power, and bring to the transit director's desk another politician who must serve his four-year apprenticeship. No public utility can provide satisfactory service at reasonable rates unless it has skilled management and expert operation. Moreover, continuity of policy is essential. These things do not ordinarily go hand in hand with the American concept of democracy. They are more likely to be found in the realm of private business than in the field of city government. Of course, it might be said in reply to this argument that the utilities are already in politics although they are privately managed, and that nothing could be worse than the present system of wholesale corruption.

Municipal ownership is sometimes opposed on the ground that it destroys initiative and reduces the likelihood of rapid technical development. City officials, it is alleged, are not interested in making experiments with new processes and trying to find better ways of doing old tasks. Instead, they wait for private enterprise to make the experiments and take the chance of profit or loss. If everything goes well, the cities slowly fall into line. But they never take the lead. So runs the argument, and there is a great deal of truth in it. Municipal officials naturally hesitate to make experiments. They seldom try new plans which have not received widespread approval, for they know full well that they will receive the blame for every failure, while

if plans are successful the city will reap the benefit. On the other hand, it should be pointed out that the owners and managers of private utility corporations also suffer from an excess of caution. Like municipal officials, though perhaps to a somewhat less extent, they hesitate to try new and unproved processes. For their profits are fixed within very narrow limits. Every technical improvement which makes possible lower operating costs is likely to result in lower rates instead of more money for utility stockholders. Why, then, should they run unnecessary risks for the benefit of the public?[11]

An argument frequently raised against municipal ownership is that it unduly increases the influence of utility employees. When a city takes control of a public utility, it must be remembered, the workers become part owners. As citizens and voters they are "stockholders" in the municipal corporation, helping to determine municipal policies and choose municipal officials at every election. Mayors and councilmen, therefore, may find it well to think twice before they refuse a demand for higher salaries, fewer hours or more liberal treatment. The number of persons now employed by privately owned gas, electric and traction companies serving the cities of the United States is probably not far from the half-million mark. Suppose all these men and women were transformed into municipal employees. Their votes, together with the votes of their relatives and friends, might be sufficient to decide many a close election.

There is still another argument which must be mentioned because it is used so frequently. Stated briefly, it is to the effect that municipal ownership is undemocratic, un-American, and an invention of the socialists. "In spite of the absence of sound economic reasons for enlargement of publicly owned activities," declares one writer, "socialistic agitation will doubtless continue and must be opposed . . . by all public-spirited citizens who believe in the soundness of American institutions."[12] Strictly

[11] See pp. 709-13.
[12] Nash, L. R., *op cit.*, p. 364.

speaking, this is less of an argument than a tirade. It is the same line of attack that has been used against virtually every political innovation. Anything new is un-American, and therefore to be shunned. Anything which the socialists favor is diabolical, and must be cast aside by all right-thinking men. But when you analyze the matter, why is municipal ownership any more socialistic than free, compulsory education or the progressive income tax? Why is city ownership and operation of the gas plant or the traction system more closely allied to socialism than city ownership and operation of the water works, the fire department or the free library? Private initiative at one time supplied the people of American cities with water, fire protection and books. Yet no one ventures the assertion that virtually all modern cities are socialistic communities because they have assumed responsibility for these essential services.

Many people who argue for or against municipal ownership fail to recognize that it is a policy rather than a principle. It is not a plan which will automatically solve all the problems of city government. Neither is it a scheme to wipe out all private property and make us a nation of bolshevists. It may work well in some places under some circumstances. In other places, with different circumstances, it may be a complete failure. A city which is poorly governed would probably make a serious mistake if it entrusted its inefficient or corrupt officials with additional authority. A well governed city, on the other hand, might be fully justified in expanding the scope of its activities—especially if it were dissatisfied with privately supplied service and could purchase privately owned utility properties at a reasonable price. It is obvious that no two cities are alike in their problems or their needs, and it ought to be equally clear that no single formula—whether that formula happens to be public ownership or public regulation—can meet the requirements of every urban community.

And so the story of city government has been told—the story of those processes which make urban life possible.

Much has necessarily been omitted, for those factors which limit the size of books do not restrict the development of municipal functions. Much has been inadequately treated, for the activities of the modern metropolis are as broad as the desires and the knowledge of man. But this volume has achieved its purpose if it has awakened an interest in municipal problems, and a desire to be of service in the crusade for better city government. The American city of the past century was the most conspicuous failure of democracy; the American city of the present century may yet be its most conspicuous triumph. The path of progress is long and steep, but only weaklings turn back, and only fools despair.

SELECTED REFERENCES

Bauer, John, *Effective Regulation of Public Utilities,* New York, 1925.

Beck, Sir Adam, *The Hydro-Electric Power Commission of Ontario,* Toronto, 1924.

Biggar, E. B., *Hydro-Electric Development in Ontario,* Toronto, 1920.

Eells, H. W., *Municipal Ownership and Operation of Electric Lighting Plants,* Proceedings of the American Society for Municipal Improvements, 1923.

Hydro-Electric Power Commission, *Refutation of Unjust Statements,* Toronto, 1922.

Lincoln, E. E., *The Results of Municipal Electric Lighting in Massachusetts,* Boston, 1918.

Mavor, James, *Niagara in Politics,* New York, 1925.

Maxey, C. C., *Readings in Municipal Government,* New York, 1924, pp. 464-85.

Municipal Index, 1928, *Public Regulation or Operation of Public Utilities—Which?* pp. 104-8.

Munro, W. B., *Municipal Government and Administration,* New York, 1923, Vol. II, Chap. XLII.

Murray, W. S., *Government Owned and Controlled Compared with Privately Owned and Regulated Electric Utilities,* New York, 1922

Nash, L. R., *The Economics of Public Utilities,* New York, 1925.

Raymond, William G., *The Public and Its Utilities,* New York, 1925.

Thompson, Carl D., *Municipal Electric Light and Power Plants in the United States and Canada,* Chicago, 1923.

—— *Municipal Ownership,* New York, 1917.

Thompson, Carl D., *Public Ownership,* New York, 1925.
Todd, A. N., *Municipal Ownership, with a Special Survey of Municipal Gas Plants in America and Europe,* Chicago, 1918.
Upson, L. D., *Practice of Municipal Administration,* New York, 1926, Chap. XXXI.
Wright, Joseph, *Selected Readings in Municipal Problems,* Boston, 1925, Chap. XLII.

Anderson, William, "Seattle's Municipal Street Railways," *National Municipal Review,* November, 1923.
King, Judson, "The Challenge of the Power Investigation to American Educators," *Bulletin No. 127,* National Popular Government League, Washington, 1929.
Nanry, W. H., "San Francisco Municipal Railway," *National Municipal Review,* March, 1928.
Upson, L. D., "Municipal Ownership in Detroit," *National Municipal Review,* September, 1923.
Wilcox, D. F., "Is City Operation of Street Railways a Political Menace?" *American City,* July, 1927.

TABLE OF CASES

Alsbath v. Philbrick, 50 N. J. L. 581, 86.
Attorney General v. Cincinnati, 20 Ohio St. 18, 83.
Bailey v. New York, 3 Hill (N. Y.) 531, 118.
Blair v. Granger, 24 R. I. 17, 118.
Bluefield Water Works and Improvement Co. v. Public Service Commission of W. Va., 262 U. S. 679, 704.
Boston v. Treasurer and Receiver-General, 237 Mass. 403; affirmed, 260 U. S. 309, 77.
Brinkmeyer *et al.* v. City of Evansville, 29 Ind. 187, 117.
Brown v. Board of Appeals of Springfield, 159 N. E. 225, 500.
Buttrick v. City of Lowell, 1 Allen (Mass.) 172, 115.
Cedar Rapids Gas Co. v. Cedar Rapids, 223 U. S. 655, 699.
Chattanooga v. the State, 5 Sneed (Tenn.) 578, 118.
Chicago v. Coleman, 254 Ill. 338, 274.
City of Boston v. Treasurer and Receiver General, 237 Mass 403; affirmed, 260 U. S. 309, 77.
Clark v. Waltham, 128 Mass. 567, 118.
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